



General Assembly

Distr.: General
21 October 2015

Original: English

Seventieth session

Agenda item 72 (b)

**Promotion and protection of human rights: human rights
questions, including alternative approaches for improving the
effective enjoyment of human rights and fundamental freedoms**

Promotion of truth, justice, reparation and guarantees of non-recurrence

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, in accordance with Human Rights Council resolution 18/7.

* The present report was submitted after the deadline, in order to reflect the discussions of the high-level policy dialogue, organized by the Special Rapporteur with the support of the Government of Sweden, on the theme of "Guarantees of non-recurrence — from aspiration to policy" held on 14 and 15 October 2015 in Stockholm.



Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Summary

In the present report, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence addresses one dimension of the fourth pillar of the mandate, guarantees of non-recurrence, focusing his analysis on the preventive potential of measures associated with reform of the security sector, including the vetting of security institutions. The report follows the report presented by the Special Rapporteur to the Human Rights Council on guarantees of non-recurrence (A/HRC/30/42).

Vetting the members of security institutions can make a significant contribution to transitional justice processes, which explains their abiding attractiveness, despite the relative dearth of successful experiences. The challenges faced by vetting processes are significant. Vetting awakens strong political opposition; it lends itself to political manipulation; it depends upon information that is not always available, especially in post-conflict settings, and vetting programmes are usually highly complex and resource-intensive. The present report offers some guidance with respect to how to meet those challenges and advocates the articulation of “vetting strategies” analogous to the strategies that can enhance the success of prosecutions in the domain of criminal justice.

The magnitude of the challenges faced by vetting is only one of the reasons cited in the report for arguing against reducing discussion about the institutional reform dimensions of non-recurrence primarily to vetting. The Special Rapporteur emphasizes that other preventive measures in the security sector are also critically important and should receive further attention. They include initiatives aimed at defining the role of the police, the military and the intelligence services; the strengthening of civilian oversight and control over security institutions; the rationalization of those institutions to bring them more into line with publically scrutinized risk assessments; narrowing military jurisdiction to disciplinary offences only; and the removal of military prerogatives such as “tutelary powers”.

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I. Introduction

1. The present report is submitted by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to the General Assembly in accordance with resolution 18/7 of the Human Rights Council. The activities undertaken by the Special Rapporteur from July 2014 to June 2015 are set out in his most recent report to the Human Rights Council (A/HRC/30/42).

2. That report addresses the fourth pillar of the mandate, guarantees of non-recurrence. The present report is properly conceived as a part of the framework presented therein. In it, the Special Rapporteur concentrates on certain preventive measures associated with the reform of the security sector, in particular the vetting of security institutions. He also discusses defining the different roles of the police, the military, and the intelligence services; rationalizing security institutions; narrowing military jurisdiction; strengthening civilian control and oversight over the security sector; and eliminating military "prerogatives".

3. Without attempting to provide a detailed summary of the earlier report, given that the two reports are part of the same overall framework, some background is called for. The notion of guarantees of non-recurrence has received significant, albeit sporadic and uneven, attention in various instruments and documents. It has been said that a commitment to non-recurrence is part of a proper understanding of remedies and, moreover, that it is entailed by a commitment to rights.

4. The first position became enshrined in the Basic Principles and Guidelines on the Right to a Remedy and Reparations for the Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in resolution 60/147 on 16 December 2005. According to the Principles and Guidelines, guarantees of non-recurrence are one of the forms of reparation (remedy) to which victims are entitled (see para. 23 of resolution 60/147).

5. More generally, it has been argued that a commitment to adhere to a right involves making an effort to ensure that its violation ceases and is not repeated. The duty to prevent recurrence is hence closely linked to the obligation of cessation of an ongoing violation. On that basis, "guarantees serve a preventive function and may be described as a positive reinforcement of future performance".¹

6. In its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the Human Rights Committee held that the purposes of the International Covenant on Civil and Political Rights "would be defeated without an obligation integral to article 2 to take measures to prevent a recurrence of a violation of the Covenant. Accordingly, it has been a frequent practice of the Committee ... to include ... the need for measures, beyond a victim-specific remedy, to be taken to avoid recurrence of the type of violation in question". The same practice can be observed in the jurisprudence of both regional and national courts.² In the landmark case of *Velásquez Rodríguez v. Honduras*, the Inter-American Court argued on the basis of the idea that States, in addition to an obligation to respect rights have an obligation to ensure them, that the commitment

¹ Commentary of the International Law Commission on article 30 of the Draft Articles on State Responsibility, *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 and corrigenda* (A/56/10).

² See A/HRC/30/42 for further examples and elaboration.

to rights includes the obligation "to organize the governmental apparatus, and in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights".³

7. Conceptually, there is a difference between guarantees of non-recurrence and the remaining three core elements of a comprehensive transitional justice approach, namely, truth, justice and reparation. While those three elements refer to measures, guarantees of non-recurrence refer to a function that can be satisfied by a broad variety of measures. The foundational texts already demonstrate that variety, pointing to, *inter alia*, reforming institutions, disbanding unofficial armed groups, repealing emergency legislation incompatible with basic rights, vetting security institutions and the judiciary, protecting human rights defenders and training members of the security institutions in human rights.

8. The core function of guarantees of non-recurrence is preventive in nature. It is one to which truth, justice and reparation are themselves supposed to contribute: criminal justice mainly through deterrence and affirmation of norms; truth commissions through disclosure, clarification and the formulation of recommendations with a preventive intent; and reparations by strengthening the hand of victims to claim redress for past and future violations and to enforce their rights more assertively.

9. Because guarantees of non-recurrence are a function that can be satisfied by diverse measures, there is no such thing as a general non-recurrence policy that will be equally effective in all contexts. An effective policy designed to prevent systemic violations will need to adjust form to function and choose the proper measures.

10. In his recent report to the Human Rights Council (A/HRC/30/42), the Special Rapporteur sketched a framework of what an actionable non-recurrence policy could include. After highlighting the significance of security (equitably distributed), of legal identity (a right which in turn is a gateway to other rights) and of economic conditions that, among other things, allow those who leave power to find a livelihood (for otherwise, as we see often, the stakes of losing power are so high that no one is willing to leave office), the report refers to a range of institutional interventions that serve a preventive aim. That range includes initiatives from the immediately actionable to long-term and complex measures that require the coordination of multiple institutions. Part of the point of presenting such a range of interventions is to emphasize that, even under inauspicious circumstances, there is something that can be done to promote non-recurrence.

11. In the domain of institutional reforms, the report includes as possible elements of a non-recurrence policy the ratification of international human rights treaties; legal reforms to incorporate international criminal types and to solve issues relating to the statute of limitations and retroactivity; a review of emergency, security and counter-terrorism laws, in order to make sure that they are compatible with human rights and that they do not provide incentives for the violation of rights; judicial reforms to strengthen both the internal and external independence of judges; constitutional reforms to remove discriminatory provisions and to introduce mechanisms of inclusion; the adoption of a bill of rights; strengthening of the separation of powers; the establishment of a constitutional court; and, at the limit, the adoption of a new constitution (or of transitional constitutional arrangements).

³ OAS/ser.L/V/III 19, doc. 13, app. VI (1988), para. 166.

12. However, in part because in some of the countries where mass violations are more likely to take place, State institutions may be weak, ineffective, inaccessible, corrupt or captured and partly because even in those places in which institutions are not beset by any of those problems, guaranteeing non-recurrence should not be reduced to a technical issue of "institutional engineering", in his report, the Special Rapporteur also emphasized the importance of interventions in the societal sphere, particularly at the level of civil society, and in the sphere of culture and of personal dispositions — interventions that have received virtually no attention in discussions about non-recurrence.

13. While discussions about transitional processes have recognized the contributions of civil society organizations to redress in terms of advocacy, evidence gathering, monitoring functions and reconciliation initiatives, the preventive potential of civil society has not been paid sufficient attention. At the most general level, the argument is that if terror works by virtue of its "disarticulating power", its capacity to isolate people from one another and hence hamper resistance (see A/68/345), conversely, one can argue that the "power of aggregation" of civil society lends it a preventive function, i.e. that where people are not alone, victimization is less likely.

14. In his recent report to the Human Rights Council (A/HRC/30/42), the Special Rapporteur claimed that for preventive purposes, strengthening civil society was important. However, because civil society cannot be reduced to non-governmental organizations (NGOs), further work needed to be done to find effective ways of bolstering other kinds of organizations that had in fact played important (but largely unexamined) roles in past transitions, including religious organizations and trade unions. That would involve strengthening protection of the freedoms of expression, association, religion, etc.

15. Finally, the Special Rapporteur also drew attention to the preventive potential of interventions in the sphere of culture and of personal dispositions. Although it is well understood that overcoming the legacies of mass violations requires some interventions at the level of individuals, including trauma counselling and psychosocial support, the preventive dimension of those and other interventions has not received sufficient attention.

16. In his report, the Special Rapporteur stated that reform of the security sector, in particular vetting, would be the subject of a report of its own. It is to that topic that the remainder of the present report is devoted. Security sector reform is a vast and highly developed field of policy and practice. In the present report, the Special Rapporteur does not in any way pretend to cover or do justice to the subject. Rather, he describes certain aspects of security sector reform that he considers particularly relevant to prevent recurrence. The United Nations has adopted policies on the human rights screening of its personnel and on assessing the human rights record of non-United Nations security forces that it intends to support. While he cannot elaborate on this in the present report, the Special Rapporteur stresses that the reputation and effectiveness of the United Nations significantly depends on the integrity of its personnel and on the consistency of its support for international human rights standards.

II. Vetting

17. In writing his report to the Human Rights Council (A/HRC/30/42), of which the present report is the companion, the Special Rapporteur was acting on the conviction that institutional reforms are an important part of a non-recurrence policy, but only one part. Similarly, in the case of the present report, the Special Rapporteur would like to acknowledge the potential of vetting programmes, but also thinks that those discussions (again, such as they have been) have crowded discussions about guarantees of non-recurrence in the transitional justice sphere and that, even in relation to preventive measures in the security sector, the range of interventions needs to be broadened.⁴ It is not just that vetting programmes are significantly harder to implement in transitions which differ from those in which an authoritarian regime collapses, but that, even in regard to vetting, it is worth emphasizing the importance of civil society. However, the fundamental point is that it is important to think about prevention in terms that go well beyond vetting, as important as the latter might be.

18. Vetting can, in fact, make an important contribution to transitions, provided that it is meaningfully differentiated from purges. Vetting, as the term has come to be used, far from being the name for massive dismissals on the basis, for example, of mere membership in a party or organization or, even less of ascriptive factors, denotes a formal process to screen the behaviour of individuals and assess their integrity on the basis of objective criteria, so as to determine their suitability for continued or prospective public employment (see S/2004/616, para. 52). On the basis of that distinction between vetting and purging, the rightly criticized “de-Baathification” programme in Iraq does not even count as a vetting programme.⁵

A. Potential contributions

19. As with other transitional justice measures, when implemented as a part of a comprehensive transitional justice policy, vetting can offer recognition to victims, foster civic trust, contribute to social integration or reconciliation and strengthen the rule of law (see A/HRC/21/46). In contexts in which it is unlikely that all of those who are responsible for human rights violations will face criminal punishment, vetting is a means for addressing part of the “impunity gap”. Making sure that violations do not remain unaddressed and that they are not considered to be inconsequential provides a measure of recognition to victims. It spares them (and others) the indignity of having to show deference to those who have violated their rights and who are still in positions of authority (for example carrying government-issued arms and bearing the insignia of the State), when they seek State services to

⁴ Three out of the six principles for the protection and promotion of human rights through action to combat impunity, which address guarantees of non-recurrence, deal with vetting (see E/CN.4/Sub.2/1997/20/Rev.1, principles 40-42). See also S/2004/616, paras. 52 and 53, and A/62/659-S/2008/39.

⁵ In May 2003, the Coalition Provisional Authority dissolved the Iraqi armed forces, security services, party militias and other organizations close to Baathists and dismissed senior members of the Baath Party, leading to well-known consequences resulting from the increased enrolment of security-trained officers in the insurgency and the significant weakening of the capacity of the Government to provide security and protect the rule of law. See Coalition Provisional Authority, Order Nos. 1 and 2 on de-Baathification of Iraqi society and the dissolution of entities.

which they are entitled. Vetting can induce trust, not just by “re-peopling” institutions with new faces, but thereby demonstrating a commitment to systemic norms governing the hiring and retention of employees, disciplinary oversight, prevention of cronyism and so on.⁶ By removing from security institutions those who are responsible for serious violations, which are normally socially divisive, vetting can make a contribution to social integration. Finally, because in the end vetting is guided by the ideal of guaranteeing the conditions under which citizens can relate to one another and to the authorities as equals, it can contribute to strengthening the rule of law.

20. In the context of a report on non-recurrence, however, there are three arguments more closely related to prevention that explain why, despite its lacklustre history, vetting remains attractive to transitional justice policymakers. First, under the right circumstances, vetting could be an “enabling condition” of other transitional justice measures. In other words, vetting is a mechanism to manage spoilers in a transition. The idea is that if institutions that were responsible for violations can be vetted early on in a transition process, other transitional justice measures will work better. In Morocco, for example, civil society organizations have claimed that the refusal of some segments of the security sector to cooperate with the Instance équité et réconciliation was due in part to the presence of officials who should have been vetted, and that the truth-telling functions of the Instance, including access to archives and testimonies, would have been more effective if they had been removed. Obviously, the argument is not restricted thematically to truth-telling, just as it is not restricted geographically to Morocco. During his visit to Uruguay, the Special Rapporteur received information about the lack of vetting of the military that has facilitated the preservation of an esprit de corps, which has hampered collaboration by the military with the judicial investigations of violations that took place during the dictatorship more than 30 years ago (see A/HRC/27/56/Add.2).

21. There is a closely related argument that is important in the context of an analysis of effective prevention tools: vetting is important because it can help to dismantle networks of criminal activity which, quite aside from resisting the implementation of transitional justice measures, may destabilize the transition and eventually pose a serious threat to democratic institutions and to the rule of law. In the light of recent events in Guatemala, in which a former General turned politician (chief of military intelligence and member of the Kaibiles, an elite force with a spotty human rights record during the conflict), who was elected President in November 2011 and resigned when Congress removed his immunities in September 2015 to face charges of corruption, it is difficult not to think of the positive difference that vetting would have made in a country not only with high levels of corruption, but with current murder rates that in some cities match or even top those that occurred during the years of conflict (see A/HRC/28/3/Add.1).

22. Indeed, it is the preventive potential of vetting, a potential that comes from its capacity to dismantle networks of criminality, which offers both the strongest

⁶ See Pablo de Greiff, “Vetting and transitional justice”, in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, Alexander Mayer-Rieckh and Pablo de Greiff, eds. (New York, Social Science Research Council, 2007). For recent empirical evidence see also Cynthia M. Horne, “Lustration, transitional justice and social trust in post-communist countries. Repairing or wresting the ties that bind?” *Europe-Asia Studies*, vol. 66, No. 2 (February 2014).

justification for it and the best explanation of how it works.⁷ It is certainly better than arguments for the deterrent effects of vetting; attributing strong deterrence powers to vetting is not particularly plausible. If, for example, more severe forms of punishment (including the death penalty) in well-established, efficient, and expeditious legal systems have a dubious deterrent value, it is not far-fetched to think that deterrence is not the strongest defence of vetting in the midst of all the uncertainties of a transitional situation. Two main forms of uncertainty are relevant in that context: the first concerns the course of the transition. It is rarely a foregone conclusion, especially at the pre-transitional stage and even in the early stages of the transition, that a new Government intent on vetting will be able to consolidate its hold on power and implement a vetting programme. That uncertainty may weaken the deterrent potential of any proposed measure (and may actually generate incentives to block the transition). The second has to do with uncertainties about the probability of those responsible being subject to any justice measure. It has been observed in the literature on criminology that beyond a certain threshold, what ends up having greater deterrent potential than the length of sentence, is the degree of certainty over being apprehended, tried and convicted and hence having to serve a sentence of some kind. In countries where the security and justice sector have been left in disarray, that is highly unlikely. It is doubtful, then, that vetting has a significant deterrent power.

23. However, it makes sense to think that vetting does have a preventive function — and prevention is not the same thing as deterrence.⁷ Rather than focusing on the possible reactions of individuals to particular measures, as the deterrent argument does, the claim for vetting operates at a different, more structural level. That argument takes vetting to be something akin to an anti-mafia measure. Thus, its purpose is not primarily to send signals to individuals (i.e., that they will lose their jobs and social standing if they engage in certain behaviour), but to disable structures within which individuals (who, by the way, may have refrained from criminal activity were it not for those structures) in fact carried out criminal acts. Vetting, then, is defended on the grounds that it may prevent the recurrence of violations, not necessarily because the sanctions it metes out (loss of job, public prestige, etc.) are sufficient to deter individuals, but because it dismantles networks of criminal activity, even if it does not reach each and every participant in activities that violate the rights of others. That also means that the focus of vetting measures can be strategically targeted, a point that will be examined below.

24. In the preceding paragraphs, the Special Rapporteur has described the potential of vetting and sought to capture some of the reasons why it has occupied so much space in the discussions about transitional institutional reforms and guarantees of non-recurrence. It goes without saying, however, that that potential is not always actualized.

⁷ For further elaboration of the argument see de Greiff, "Vetting and transitional justice", in *Justice as Prevention: Vetting Public Employees in Transitional Societies*.

B. Challenges

25. Indeed, the challenges faced by vetting are severe. Among transitional justice measures, vetting is arguably the one that has lent itself more frequently to political manipulation. The following factors may explain why that is the case: post-conflict or transitional prosecutions are infrequent to begin with and they generally involve sufficient due process guarantees as to raise a shield against easy political manipulation; and truth-telling exercises, particularly by way of truth commissions, are also extraordinary events and the publicity that surrounds them is one among many factors that have kept such commissions from falling into the trap of partisan politics. Vetting, on the other hand, usually involves thousands of people, the process more often than not takes place with little public scrutiny, is usually carried out either by institutions close to the executive or by the very institutions whose members are being vetted. Perhaps as a result, they offer weak procedural guarantees and, contrary to even the best outcome of prosecutions or truth-telling, what hangs in the balance is (some degree of) control of public institutions — a strong incentive to engage in it for partisan political purposes.⁸ Vetting can affect the distribution of power, in that certain political groups may be disproportionately affected by a vetting process, while other groups may gain influence as a result of the process. Rather than establishing accountability for past abuses, a vetting process can be manipulated for ongoing political purposes. In the political isolation process in Libya, the disqualification criteria were so vague that they led not only to the removal of Gaddafi-era officials, but also resulted in marginalizing some members of one side of the political spectrum (including those appointed through national elections), thereby contributing to the destabilization of an already fragile transition.

26. The political manipulation of vetting, using it as a way of, for example, hammering political opponents, already involves the crossing of a threshold of political opposition to vetting that many countries never overcome. A transitional government that is composed of representatives from various political factions with different agendas, or one that suffers from limited legitimacy may find it hard to implement a politically sensitive vetting process; or, as is more often than not the case, senior security officers and politicians are able to maintain their positions of power after the end of the conflict or the authoritarian regime and successfully resist the establishment of a vetting process.

27. Although many countries could be used as examples of political resistance to vetting, Nepal provides a recent and continuing illustration. Several commitments were made in the 2006 Comprehensive Peace Accord, the 2007 interim constitution and subsequent agreements to pursue accountability for serious abuses committed during the 10-year armed conflict. Various domestic civil society organizations and international actors repeatedly called on the Government, the army and other security institutions to put in place a vetting process. In a ruling in 2012, the Supreme Court of Nepal recognized vetting as a measure of transitional justice and ordered the Government to develop a new law on vetting and adopt temporary

⁸ For a review of the politicization of lustration processes in Central and Eastern Europe, see Cynthia M. Horne and Margaret Levi, "Does lustration promote trustworthy governance? An exploration of the experience of Central and Eastern Europe", in *Building a Trustworthy State in Post-Socialist Transition*, Janos Kornai and Susan Rose-Ackerman, eds. (New York, Palgrave Macmillan, 2004).

guidelines for vetting public officials when making new appointments, promotions or transfers until the law on vetting had been adopted.⁹ Despite repeated commitments and demands, those instructions have not been followed and senior security and government officials have so far effectively resisted not only criminal prosecutions but also the establishment of a vetting process.

28. Assuming that countries can overcome political resistance to vetting and manage to avoid its political manipulation, they must still face a very tough set of challenges stemming from the complexity of the issue.

29. To begin with, there is a great deal of complexity in the very design of a vetting procedure. The following (partial) list of design variables around which complex decisions need to be made, illustrates the challenges:

(a) Vetting programmes have differed in terms of their targets. Choices have to be made both about the institutions where vetting will be applied and the positions within those institutions which will be subject to screening;¹⁰

(b) Programmes also differ in terms of screening criteria, i.e. precisely what kind of violations and abuses the system is designed to cover;

(c) Different decisions may also be taken about the types of evidence admissible in the process and importantly, about the criterion for making determinations;¹¹

(d) Not all programmes are the same in terms of the sanctions they impose — even dismissals can take place in many different ways (starting in a relatively mild way by giving people the opportunity to resign without disclosing their participation in behaviour considered abusive). Vetting sanctions can involve different degrees of publicity and prospective limitations in seeking employment in various sectors in the future;

(e) Finally, but importantly from a rule-of-law perspective, programmes differ in their establishment of review or appeals mechanisms.

30. Quite apart from the challenges that arise at the design stage, there are also formidable challenges at the implementation or operational stages. The truth is that in most settings, but particularly in post-conflict contexts, vetting programmes operate under conditions that would challenge any system. The programmes are supposed to screen very large numbers of people on the basis of a variety of criteria (not always completely settled once and for all) and on information that is rarely complete and of which the reliability is often questionable. They also almost always take place under a great deal of time pressure.

31. The case of Liberia, where the National Transitional Government with the support of the United Nations Mission in Liberia (UNMIL) conducted a vetting of

⁹ See, for example, *Sunil Ranjan Singh v. the Government of Nepal* (case No. 067/2067).

¹⁰ More countries have established vetting programmes for sectors of the armed forces and police service than for the judiciary. Transitional justice measures implemented in Greece and Germany also included the vetting of universities. Proposals to vet sectors of the news media and other professions were not uncommon in the aftermath of the transitions in Eastern and Central Europe and of course, many countries including all of those mentioned above have used vetting processes for some electoral and other government offices.

¹¹ As administrative procedures, vetting programmes do not apply the standard of "beyond any reasonable doubt", but use the "balance of probabilities" or similar concepts.

the Liberia National Police and other civilian security agencies between 2004 and 2006, illustrates some of the challenges which characterize vetting efforts, particularly in post-conflict and weakly institutionalized settings.¹² Despite significant efforts, only limited information on the involvement of serving officers in human rights abuses during the years of conflict was obtained: criminal records had been largely destroyed; information contained in reports of non-governmental organizations, in the files of the Special Court for Sierra Leone and the Sierra Leone Truth and Reconciliation Commission and in the databases of the disarmament, demobilization, rehabilitation and reintegration process was usually not recorded in a manner which made cross-referencing of names possible; visits by UNMIL police and the background section of the Liberia National Police to the home communities of serving officers did not yield much information, owing to the enormous displacement that had taken place during the conflict and security concerns felt by community members; and the publication of the names of serving officers in national newspapers resulted in only four complaints,¹³ which were found on investigation to be false.¹⁴

32. The difficulties in gathering information pertaining to human rights criteria are shared across a variety of cases. Between 1999 and 2002 the United Nations Mission in Bosnia and Herzegovina (UNMIBH) vetted more than 23,000 police officers in the country on a variety of criteria, including human rights. UNMIBH established a complex system to collect information on the background of police officers (see Security Council resolution 1088 (1996)). It had access to and searched the databases of the International Criminal Tribunal for the former Yugoslavia, maintained field offices throughout Bosnia and Herzegovina and collected information from victims and witnesses on abuses dating from the time of the armed conflict. The mission also systematically searched reports issued by national and international governmental and non-governmental organizations and, finally, questionnaires completed by officers during their registration by UNMIBH sometimes contained relevant information on their background at the time of the armed conflict. On that basis, around 200 serving police officers were identified as having questionable backgrounds, triggering further investigations by UNMIBH to substantiate the allegations. In the end, as a result of the comprehensive data collection and investigation process, some 60 out of a total of around 23,000 police officers were removed from service on human rights-related grounds. Despite the enormous investment made by the mission, the number of removals based on misconduct at the time of the armed conflict was small in comparison, not only to the total of around 500 officers removed on other grounds, but also to the magnitude

¹² The role of UNMIL included assisting with the reform and restructuring of the police and other civilian security institutions, including determining the composition, selection and vetting of members of the new national police (see Security Council resolution 1509 (2003) and S/2003/875).

¹³ It should be noted that no pictures of the officers were published, which made the identification of abusive officers more difficult, that Liberia has a high illiteracy rate and the circulation of national newspapers is not more than 20,000 and very limited outside Monrovia.

¹⁴ That is not to say that the vetting process was inconsequential. In fact, around 60 per cent of Liberia National Police officers were disqualified, but only a few were removed on human rights grounds. Most of the dismissals resulted from a failure to meet educational or other criteria.

of the crimes committed during the armed conflict and the key roles held by uniformed actors in the commission of those crimes.¹⁵

33. In general and particularly from a preventive standpoint, the numbers of people screened are by themselves not indicative of success (or failure). As argued before and, in the context of a prosecutorial strategy, elsewhere (see A/HRC/27/56), a crucial preventive aim is the dismantlement of networks, rather than the wide distribution of sanctions. The problem, however, is that most (although not all) vetting efforts in the security sector have not been targeted but general and in that sense not particularly strategic. Against that background, low numbers do acquire a more revealing character and what they reveal is not a picture of huge success.

34. The difficulties having to do with information do not pertain only to availability or reliability ("supply" issues, as it were). They also have to do with a design or "demand" issue. Vetting processes screen individuals on a variety of criteria, some of them having to do with "capacity" (qualifications, training) and some of them with "integrity" (human rights compliance, financial probity) apart from other demographic criteria (gender, geographical provenance, ethnicity, religion). In a perfect world, of course, there is an incentive to vet people in accordance with the most comprehensive set of screening criteria. In the real world, where information is in short supply, every addition of a criterion to the screening set generates costs. Thus, to illustrate the point, the vetting of the police in Bosnia and Herzegovina was based initially on criteria that included registration, age, nationality, training, performance, conduct, criminal record and not having committed atrocities during the armed conflict. In the middle of the process, a new criterion was introduced to verify whether police officers had illegally occupied the housing of refugees or internally displaced persons. As a result, supplementary information had to be sought from more than 23,000 officers and the legality of the housing situation of each and every officer had to be determined. That led to the identification of close to 8,000 illegal occupations by police officers, but it also further extended the duration of the process and contributed to the difficulties in completing it on time (see S/2002/1314).

35. Complexity in itself is not the main problem; what is problematic is the tendency to design vetting programmes without any sense of the conditions, the fulfilment of which is necessary for achieving the tasks in hand, including the availability of evidence, or even the magnitude of the load that such programmes will have to bear.¹⁶ When design gets so far ahead of possibilities and ignores so many constraints, the probabilities of success diminish.

C. Ways of meeting the challenges

36. Political opposition to vetting can be addressed both by trying to strengthen incentives (demand) for it and also by trying to weaken opposition to it. On the first point, it has been a constant factor in the work of the Special Rapporteur to

¹⁵ See Alexander Mayer-Rieckh, "Vetting to prevent future abuses: reforming the police, courts, and prosecutors' offices in Bosnia and Herzegovina" in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, Alexander Mayer-Rieckh and Pablo de Greiff, eds. (New York, Social Science Research Council, 2007).

¹⁶ In that sense, the problem is analogous to the challenges raised by truth commission mandates that depart from criteria of "functional adequacy" (see A/HRC/24/42).

emphasize that almost without exception, it has been the tireless work of civil society organizations that explains the relative success of transitional justice. It is no different with regard to vetting. Ultimately, the political costs and risks involved in dislodging from positions of power those who bear arms will not wreck a vetting programme only if the incentives for establishing one are strong enough to overcome the disincentives. The moral convictions of individual political leaders are rarely sufficient. Resistance must be met by other sources of demand and those usually come from civil society. However, civil society organizations are much less familiar with vetting alternatives than with other transitional justice measures. Hence, there is also less activism in favour of it. Strengthening the capacity of civil society in relation to vetting can therefore catalyse support in its favour.

37. In certain contexts, perhaps there is no way of sufficiently quelling opposition to vetting. Other strategies for bringing a certain degree of control over membership in security institutions are called for. There are situations in which even the basic question of who is part of a security institution has no clear answer. In the Democratic Republic of the Congo, for instance, vetting the police was a possible reform activity that was regularly discussed following the establishment of the Transitional Government in 2003.¹⁷ However, in addition to political and internal police opposition to vetting, the institutional conditions for vetting were not in place. While the Police nationale congolaise was nominally unified, the police remained internally divided and former warring factions continued to interfere with policing. Estimates of the number of police in the country varied between 80,000 and 110,000 officers. The human resource management system of the police had not been maintained and basic information on police officers did not exist. Police officers did not possess identification cards and the public could not always determine who was a police officer and who was not. Moreover, most immediate efforts at police reform focused on preparing the police to provide effective security for the elections in mid-2005. As a result, plans for putting in place a vetting process were not pursued. Instead, police reform efforts concentrated on establishing a registration process to determine the number of police officers and define the parameters of a future personnel reform process, including vetting.

38. Similarly, in Burundi, the 2000 Arusha Peace and Reconciliation Agreement dissolved all law enforcement agencies and integrated their members into a single institution, the Police nationale de Burundi, with over 17,000 officers. But the exact number of officers "inherited" from previous agencies, their level of education and their professional experience could not be determined owing to the swift process of integration of various groups of officers with hugely diverse backgrounds. As a result, the Ministry of Public Security had difficulty in controlling and managing police personnel, which nurtured a culture of lawlessness and prevented the police reform process from moving forward. In 2008, the Ministry launched a census and identification process to register and issue service cards to all police officers. Following the process, every officer had to be in possession of a service card and carry a visible badge. A public information campaign informed citizens that they could ask an officer to identify him- or herself. The census and the requirement to carry identification established a measure of public accountability in that it enabled

¹⁷ Other security institutions were also considered for vetting. In particular the members of the defence forces were to be vetted in the context of the *brassage* process, the integration of former warring armed groups into the Forces armées de la République démocratique du Congo (FARDC).

citizens to identify police officers and attribute police activities to specific officers. The process also made it possible to identify and sanction persons who gave the appearance of being police officers but were not. In addition, ghost officers who were on the Ministry payroll, but did not exist, could be identified and their salary payments could be terminated. The database of the census and identification process became the basis for the newly developed human resources management system and other reform efforts (see A/HRC/30/42/Add.1).

39. There are many contexts in which a great deal of political capital is misspent in discussions about vetting, when it is plain that long before an effective vetting programme can be put in place, it is crucial to take measures as basic as establishing a registration census for the members of security institutions. That is not only less likely to awaken opposition, it is a sort of "gateway" condition for discipline and oversight of the security institutions.¹⁸

40. One way to diminish opposition to vetting in some contexts, although not all, and at the same time reduce the demands on the system (including by reducing the number of people to be screened) is to target the programmes more narrowly, or to roll them out incrementally. In Kenya, the National Police Service Commission was mandated in 2011 to vet all 80,000 police officers in the country.¹⁹ The Commission took considerable time to develop the regulatory framework for the vetting process and set up the vetting secretariat. The vetting process was launched in December 2013. After one year of operation, the Commission had completed the vetting of the 198 most senior police officers, around 0.25 per cent of the total number of officers to be vetted, while the vetting of the next level had just started. Of the 198 senior officers, 17 were found unsuitable. The Commission was criticized not only for what the public considered the low number of removals, but also for its slow implementation rate. The delays were caused by the complexity of the vetting procedures, operational and security challenges, internal management issues and funding shortages. Had the programme been designed and implemented in a stepwise fashion, perhaps at the very least expectations would have been managed more effectively.

41. Where to start a vetting process that targets some but not all ranks in an institution depends on circumstances and there may be some contexts in which that will not work. One can imagine certain places where focusing first on categories of officials who are likely to put up the greatest resistance, so that spoilers are removed early on, would work well. In others, by contrast, fine-tuning a vetting strategy first, accumulating experience and information and letting other reforms of the security sector take root before addressing the most controversial cases might be more beneficial. Surprisingly, the alternative of targeted vetting with different incremental paths has received little systematic attention. In other words, just as prosecutions in a transitional setting may be strengthened by the articulation of a prosecutorial strategy of the sort advocated by the Special Rapporteur in an earlier report (A/HRC/27/56), vetting may profit from the design of a corresponding vetting strategy.

¹⁸ Not unlike the way that legal identity is a sort of "gateway" right for citizens, which enables access to other rights (see A/HRC/30/42).

¹⁹ See National Police Service Act (2011), part II, section 7, and National Police Service (Vetting) Regulations (2013).

42. Such a strategy may seek to diminish resistance, not merely through “targeting” but also through the adoption of “soft lustration” or “indirect vetting”. Soft lustration as it was applied in Poland in the late 1990s was a form of vetting that only punished a “lustration lie”: officials who were truthful about their collaboration with the secret services were not sanctioned. Only those officials who made untruthful lustration statements lost their jobs.²⁰ Of course the system did not apply primarily to members of the security institutions, its primary target was individuals in political office and in some sectors of the civil service. Forms of “soft lustration” for members of the security institutions would need to be modified in order to account for the special duties and responsibilities of members of the security sector. Soft forms of vetting, which also include measures that allow people to resign their positions quietly can adopt forms that warrant more attention, especially if combined with other measures which may facilitate other justice aims, such as truth-seeking or other forms of institutional renewal. They may also be combined with limited forms of vetting, such as merely screening new appointments, promotions or transfers.

43. “Indirect vetting” is the name that can be used for strategies that create incentives for abusive officials to vacate their positions. At the greatest extreme of indirection and perhaps no longer, strictly speaking, a form of vetting, given the generality of the incentives (which therefore apply across the board and no longer differentiate on the basis of individual behaviour), one finds, for instance, either incentives to take early retirement or, as in the case of Spain after the transition, a reduction in the mandatory retirement age (to 65 years) and the creation of the “active retirement” regime. As a result, most generals who served during the authoritarian regime had to retire but kept their honours and were given responsibilities outside the military chain of command, such as research assignments or forestry management. Measures of that sort enable generational renewal in the security sector without generating the same sort of opposition as screening measures that target individuals (see A/HRC/27/56/Add.1).

44. Argentina ended up, not entirely by design, with an especially interesting form of “indirect vetting”. As a result of legislation to increase both the transparency of, and the participation of civil society in, parliamentary debates, civil society organizations gained authorization to make submissions to debates concerning promotions to the highest ranks in the security sector. That is perhaps the paradigmatic case of a strategy that creates incentives for retirement: candidates to promotion to the highest ranks who had murky pasts could be sure that NGOs would make submissions to the debate that could not be ignored. Given that the enabling legislation was not even related to vetting but to congressional procedures, no one could complain too much. However, since beyond a certain rank it is difficult to stay in the security sector if one is not going to seek a promotion, the system did provide strong incentives for people to retire and it has been used to very good effect by human rights NGOs in Argentina. So, although quite “indirect” it is nonetheless an effective form of vetting.²¹ A lot of room is still open for policies of that sort.

²⁰ Polish lustration law adopted on 11 April 1997. See also Roman David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland* (Philadelphia, Pennsylvania, University of Pennsylvania Press, 2011).

²¹ See Valeria Barbuto “Strengthening democracy: ‘impugnación’ procedures in Argentina”, in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, Alexander Mayer-Rieckh and Pablo de Greiff, eds. (New York, Social Science Research Council, 2007).

III. Other measures

45. While the Special Rapporteur is convinced that there is plenty of room for creative thinking about ways of overcoming or mitigating the challenges posed, particularly (although not exclusively) when a conception of vetting that was designed for collapsed post-authoritarian transitions is applied in post-conflict settings, the truth is that for many reasons thinking about non-recurrence in the context of the security sector should not be reduced to vetting. There are other preventive measures that he would like to highlight in the present report.

A. Defining the role of the police, the military and the intelligence services

46. In a good number of the countries where atrocity crimes have taken place, legal texts are ambiguous concerning the various roles of the different parts of the security sector. In still more countries, the military have been deployed in counter-insurgency and counter-terrorism operations within their borders, for riot control and in crime control operations, such as in the war on drugs. Countries seeking to establish a preventive strategy would do well to make sure that their constitutions clearly establish a difference between the external defence function of the military (and the strict conditions under which it can be used internally) and the internal security functions of the police. The precise functions and limits of both internal and external intelligence services should also be specified.

47. Failing to establish those distinctions can lead and has often led to the politicization of the armed forces, exposes them to corruption, distorts the understanding of their proper social role, puts them in situations for which their training is unsuited and can create an incentive for acquiring interests (including economic interests) that are foreign to their role. Ultimately, such situations may result in a "militarization" of politics. Additionally, that has as a consequence the corresponding weakening of the police service whose training and equipment, although in theory best suited for internal security purposes, suffers, relegating them to a place in which corruption and other forms of criminality become attractive, thus deepening a spiral of dysfunction easy to see in many police services in countries in which the military has a bloated mandate.

B. Rationalization of the security services

48. During periods of conflict and also under authoritarianism there is often a proliferation of security bodies (including intelligence services) with partially overlapping mandates and often crossing lines of command. A rationalization of the security sector in order to streamline both services and lines of command and to strengthen civilian oversight to guarantee compliance with constitutionally defined functions, is a critical part of a long-term prevention policy. In the present report, the Special Rapporteur cannot delve in more detail into that sort of reform but he wishes to highlight its importance.

49. Similarly, during times of conflict and under authoritarianism, a proliferation of non-State armed groups is often observed. Depending on the concrete circumstances, various measures may be taken to prevent their continued involvement in human rights abuses, including their disbandment, the disarmament, demobilization and

social reintegration of their members, or vetting and the integration of their members into statutory security institutions.

50. The rationalization of the security services would be greatly enhanced, and this would have significant preventive potential, by tying expenditures in security to objective risk assessments, which could be the subject of public discussion (compatible with legitimate needs for confidentiality). Sophisticated risk assessments (including for some security factors) are done on an ongoing basis by both finance and insurance firms. Considering the vast expenditures in the area of security, their opportunity costs (including foregone investments in the social sector that may address some of the factors with which violations correlate), the tendency to use security budgets to hide incorrect appropriations and illegal expenses and the track record of human rights violations of bloated intelligence and security forces, greater public scrutiny of the relationship between security expenditures and real risk (referring in this context to the security needs of the population, particularly marginal and other vulnerable groups) should be promoted.

C. Narrowing the jurisdiction of military courts

51. The Special Rapporteur reiterates that international law clearly establishes that the jurisdiction of military courts is restricted to military functions, that is, to trying members of the military and for military offences, such as insurrection, only (see, for example, A/61/384 and E/CN.4/2006/58)²² and that trying civilians in military courts or trying members of the military for crimes other than military crimes contravenes international law, in itself constitutes a violation of rights and, furthermore, is one of the most prevalent ways of shielding violations (see A/HRC/30/42). That is a serious problem in an extensive list of diverse countries including Cambodia, Colombia, Egypt, Nepal, Mexico and the United States of America. A non-recurrence policy should prioritize narrowing the jurisdiction of military courts to military personnel for offences against military discipline only and ensure that the jurisdiction of ordinary courts prevails over that of military courts to conduct investigations and prosecute alleged offences involving human rights violations, including when the alleged acts were committed by military personnel (see A/68/285).

D. Strengthening civilian control and oversight over the security institutions

52. The overall aim of security sector reforms in post-authoritarian or post-conflict situations is not necessarily best captured in terms of diminishing the size or costs of security institutions, even less diminishing their strength. The aim is rather to professionalize those institutions, preventing the power that inevitably derives from a monopoly of legitimate large-scale force from spilling over into other domains, politics and the economy included, and primarily, securing civilian control and oversight over them — that control and oversight falling, of course, under the law and in full compliance with all relevant international standards.

²² See also Juan Carlos Gutiérrez and Silvano Cantú, "The restriction of military jurisdiction in international human rights protection systems", *International Journal on Human Rights*, vol. 7, No. 13 (July 2010).

53. Civilian control is strengthened by establishing a truly civilian ministry of defence (which is not the same as appointing a civilian minister) responsible for the administrative aspects of the defence sector and, more importantly, representing the head of State, and also for defining defence policy, possibly within the framework of a national security council, with the advice of members of the armed forces. The ministry should be in charge also of drafting the military budget, establishing personnel policy and the general oversight of the armed forces. Additionally, effective parliamentary oversight of all relevant aspects of the military (policy, budget, acquisitions, career paths, etc.) and other oversight, monitoring and accountability mechanisms (such as effective internal disciplinary mechanisms, independent human rights bodies, ombudsperson offices, judicial oversight and informal oversight mechanisms, including the media and human rights NGOs) should be an important part of a preventive strategy. Experience suggests that civilian oversight is more effective if it is provided through multiple channels.

E. Eliminating military prerogatives

54. One of the legacies of the involvement of the military in functions that are not their own are "prerogatives", which often include control over various aspects of politics and the economy. They include "tutelary powers", such as the authority to appoint members of the legislature (25 per cent in Myanmar, for example), which, in conjunction with super-majority requirements, guarantees the military a veto power over law-making and constitutional reforms. Those powers may also include outsized participation in security councils, with more than advisory powers, giving the military effective control over crucial issues, sometimes including when to declare a state of emergency (with the corresponding suspension of, and threats to, rights);²³ guaranteed financial resources with little oversight or transparency; and loosely-to-not regulated opportunities for military industries and for members of the military to participate in businesses. Those prerogatives, "authoritarian enclaves" or areas of autonomy beyond control, should be eliminated as part of a preventive strategy. They weaken civilian oversight and control of the armed forces, are detrimental to economic development, subvert democracy and the rule of law, and undermine transparency in governance.

55. One of the reasons why even militaries that have not held political power have managed to carve out so many significant prerogatives or "reserve domains" is that there is relatively speaking little technical competence in civil society as regards defence policy issues. The Special Rapporteur urges States and international organizations to invest in the development of such capacities. Meaningful civilian oversight over the military depends on decisively disputing its alleged monopoly of expertise in defence issues, including strategy, budgeting, armaments, etc. A policy to prevent human rights violations would be significantly strengthened if it paid attention to the conditions under which effective civilian oversight of military forces could take place. The informed involvement of civil society actors in a security sector reform process significantly shapes its direction and scope.

²³ The 1980 constitution in Chile gave half the seats in the powerful National Security Council to members of the military. Reforms in 2004 made the Council an advisory body, convened at will by the President. See, for example, David Pion-Berlin, "Defense organization and civil-military relations in Latin America", *Armed Forces & Society*, vol. 35, No. 3 (April 2009).

IV. Conclusions and recommendations

56. In his most recent report to the Human Rights Council (A/HRC/30/42), the Special Rapporteur noted that institutional reforms are an important part of a non-recurrence policy, but also emphasized that other types of initiatives, including strengthening civil society and those targeting culture and individual dispositions, could make important contributions to preventing a recurrence of violations. Similarly, in the context of the present report, the Special Rapporteur would like to acknowledge the potential of vetting programmes, but is also of the view that discussions about vetting have crowded the field of non-recurrence. It is important to situate vetting within the broader framework of security sector reform and to think about prevention in terms that go well beyond vetting, as important as the latter might be.

Vetting

57. The Special Rapporteur calls upon States, in the aftermath of conflict and/or repression, to adopt comprehensive transitional justice policies, including the removal from security institutions of individuals responsible for human rights violations. Vetting can make a significant contribution to transitions. As with other transitional justice measures, when implemented as a part of a comprehensive transitional justice policy, vetting can offer recognition to victims, foster civic trust, contribute to social integration or reconciliation and strengthen the rule of law. As a mechanism to manage spoilers in transitions, vetting can also be an "enabling condition" of other transitional justice measures. More broadly, vetting can contribute to prevention, because it can help to dismantle criminal networks that may destabilize the transition and pose a serious threat to democratic institutions and the rule of law.

58. The Special Rapporteur also calls attention, however, to the severe challenges faced by vetting in transitions. Political opposition is regularly severe enough to prevent the establishment of vetting processes. Vetting can also be manipulated for ongoing political purposes, rather than establishing accountability for past violations. In addition, there are formidable operational challenges that arise at the implementation stages. Commonly in a vetting process, very large numbers of people are supposed to be screened under a great deal of time pressure, on the basis of a variety of criteria that are not always clearly defined, requiring background-related information that is difficult to find and substantiate, and usually with limited resources and inadequate capacities. The consequences of a vetting process may also generate considerable challenges affecting the environment, including further weakening of already fragile institutions, making it more difficult for them to deliver their services and creating a pool of disenchanted individuals who may destabilize the security situation.

59. The Special Rapporteur urges States and international organizations to invest in the development of civil society capacities in vetting and other areas of security sector reform. Generally, civil society organizations are much less familiar with vetting and security sector reform than with other transitional justice measures. Military and other security actors usually provide little space for civil society in a domain they consider their prerogative. Informed civil society actors can, however, not only counter resistance to vetting and advocate

for reform, but also lend technical know-how on vetting that rarely exists in transitions. Civil society organizations can also play an important role in collecting and analysing background information on officers of the security institutions. Such information constitutes the foundation of any vetting process, but is often not available at all or not available in the right form. The Special Rapporteur encourages the training of civil society organizations on how information should be collected and organized so that it can be used in the vetting process. Of particular importance in this context is detailed information on perpetrators of human rights violations.

60. The Special Rapporteur calls upon States in transition to respond flexibly to operational challenges and opposition to vetting and, while insisting that individuals implicated in serious human rights violations ought to be removed from or not be integrated into the security sector, to adopt approaches to vetting that stand a realistic chance of being implemented. In contexts in which it is not clear who is part of a security institution and who is not, and in which basic information on personnel is not available, reform efforts may initially focus on a personnel census rather than on vetting. A census is not only less likely to awaken opposition, it is also a sort of "gateway" condition for discipline and oversight in the security sector and an institutional condition for other reforms, including vetting.

61. The Special Rapporteur encourages States in transition to adopt vetting strategies that, akin to prosecutorial strategies, respond to the characteristics of weakly institutionalized settings and to the likelihood of strong political opposition to vetting; to the insufficient capacities to remove all officers involved in human rights violations; to the potential security threats posed by a pool of officers who have been removed from their posts as a result of vetting; and to the potentially negative repercussions of a failed vetting process that not only misses its stated objectives, but may legitimize abusive officers and further erode public trust. One strategic option might be to adopt a "targeted vetting" approach that focuses on some ranks or certain units in an institution. Rather than covering all personnel, targeted vetting aims to dismantle criminal networks, remove spoilers, or empower units within the institution that have a specific responsibility to combat criminal activity, such as an internal discipline function, and ensure accountability, thereby contributing to preventing recurrence. Variations of "indirect vetting", such as creating incentives (both positive and negative) for retirement or resignation, may be adopted in contexts in which more traditional forms of vetting are effectively opposed.

62. The Special Rapporteur calls upon States designing a vetting process to limit the number of criteria applied and to focus primarily on criteria related to the integrity of the personnel, particularly their human rights record. Vetting in transition can contribute to and prepare for, but cannot substitute for and should not be confounded with, regular human resources management in security institutions. The aims of vetting in the context of transitional justice relate primarily to the integrity of personnel and less to their competence. The type and number of criteria also significantly affect the duration of the process. Whereas ideally vetting may aim at the highest levels of the competence and integrity of personnel, a protracted process absorbs too many resources, is difficult to sustain and will hardly be able to achieve its goals, particularly that of contributing effectively to dismantling criminal networks within a reasonable

period of time. Hence, vetting should aim primarily at removing those individuals who have committed the most serious violations and at ensuring at least minimum levels of integrity of the personnel concerned.

Other measures

63. In the present report, in addition to vetting, the Special Rapporteur calls attention to several other institutional reform measures in the context of the security sector, including defining the different roles of the police, the military and the intelligence services; rationalizing security institutions; narrowing the jurisdiction of military courts; strengthening civilian control and oversight over the security sector; and eliminating military "prerogatives".

64. The Special Rapporteur calls upon States emerging from conflict or authoritarianism to define in their constitutions the roles and functions of the armed forces, the police, the intelligence services and other security institutions, and to clearly differentiate between the external defence functions of the armed forces and the internal security functions of the police. In addition, measures need to be taken to prevent the continued involvement of non-State armed groups in human rights violations, including their disbandment; the disarmament, demobilization and social reintegration of their members; or vetting and the integration of their members into statutory security institutions.

65. The Special Rapporteur also strongly encourages States to strengthen civilian control over the military by establishing a functional civilian ministry of defence and to put in place effective oversight, monitoring and accountability mechanisms in the security sector. He notes that civilian oversight is more effective if it is provided through multiple channels.

66. The Special Rapporteur calls attention to the "prerogatives" of the military, which are a common legacy in countries in transition and include control over various aspects of politics and the economy. He urges States, as part of a preventive strategy, to eliminate such areas of military autonomy.

67. The Special Rapporteur calls on States with military courts to restrict their jurisdiction solely to members of the military for offences against military discipline.

68. The Special Rapporteur also notes that security sector reform is a vast and highly developed field of policy and practice and that significantly more work needs to be done to explore the preventive dimension of security sector reform. The Special Rapporteur calls for more discussion and constructive dialogue between the transitional justice and security sector reform communities to overcome misconceptions and explore synergies leading to coordinated actions.

**General Assembly**

Distr.: General
21 October 2015

Original: English

Seventieth session
Agenda item 135

Programme planning**Report of the Fifth Committee**

Rapporteur: Mr. Gert Auväärt (Republic of Estonia)

I. Introduction

1. At its 2nd plenary meeting, on 18 September 2015, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its seventieth session the item entitled "Programme planning" and to allocate it to the Fifth Committee.
2. The Fifth Committee considered the item at its 2nd and 8th meetings, on 9 and 21 October 2015. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/70/SR.2 and 8).
3. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Committee for Programme and Coordination on the work of its fifty-fifth session (A/70/16 (chaps. I, II.A (relevant parts), II.B, III and IV));
 - (b) Report of the Office of Internal Oversight Services on strengthening the role of evaluation and the application of evaluation findings on programme design, delivery and policy directives (A/70/72);
 - (c) Report of the Secretary-General on consolidated changes to the biennial programme plan as reflected in the proposed programme budget for the biennium 2016-2017 and proposals to improve the implementation of results-based budgeting (A/70/80 (chap. II));
 - (d) Report of the Secretary-General on proposed revisions to the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, Monitoring of Implementation and the Methods of Evaluation (A/68/74 and Corr.1).

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II. Consideration of draft resolution A/C.5/70/L.3

4. At its 8th meeting, on 21 October, the Committee had before it a draft resolution entitled "Programme planning" (A/C.5/70/L.3), submitted by the Chair on the basis of informal consultations coordinated by the representative of Israel.

5. At the same meeting, the Committee adopted draft resolution A/C.5/70/L.3 without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Programme planning

The General Assembly,

Recalling its resolutions 37/234 of 21 December 1982, 38/227 A of 20 December 1983, 41/213 of 19 December 1986, 55/234 of 23 December 2000, 56/253 of 24 December 2001, 57/282 of 20 December 2002, 58/268 and 58/269 of 23 December 2003, 59/275 of 23 December 2004, 60/257 of 8 May 2006, 61/235 of 22 December 2006, 62/224 of 22 December 2007, 63/247 of 24 December 2008, 64/229 of 22 December 2009, 65/244 of 24 December 2010, 66/8 of 11 November 2011, 67/236 of 24 December 2012, 68/20 of 4 December 2013 and 69/17 of 18 November 2014,

Recalling also the terms of reference of the Committee for Programme and Coordination, as outlined in the annex to Economic and Social Council resolution 2008 (LX) of 14 May 1976,

Having considered the report of the Committee for Programme and Coordination on the work of its fifty-fifth session,¹

Having also considered the report of the Office of Internal Oversight Services on strengthening the role of evaluation and the application of evaluation findings on programme design, delivery and policy directives,² concerning proposed revisions to the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation,³ and the report of the Secretary-General on the consolidated changes to the biennial programme plan as reflected in the proposed programme budget for the biennium 2016-2017 and proposals to improve the implementation of results-based budgeting,⁴

1. *Reaffirms* the role of the Committee for Programme and Coordination as the main subsidiary organ of the General Assembly and the Economic and Social Council for planning, programming and coordination;

2. *Re-emphasizes* the role of the plenary and the Main Committees of the General Assembly in reviewing and taking action on the appropriate recommendations of the Committee for Programme and Coordination relevant to their work, in accordance with regulation 4.10 of the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation;⁵

3. *Stresses* that setting the priorities of the United Nations is the prerogative of the Member States, as reflected in legislative mandates;

¹ Official Records of the General Assembly, Seventieth Session, Supplement No. 16 (A/70/16).

² A/70/72.

³ A/68/74 and Corr.1.

⁴ A/70/80, chap. II.

⁵ ST/SGB/2000/8.

4. *Also stresses* the need for Member States to participate fully in the budget preparation process, from its early stages and throughout the process;

5. *Endorses* the conclusions and recommendations of the Committee for Programme and Coordination on proposed revisions to the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation,⁶ on proposals to improve the implementation of results-based budgeting,⁶ on evaluation,⁷ on the annual overview report of the United Nations System Chief Executives Board for Coordination for 2014⁸ and on United Nations system support for the New Partnership for Africa's Development.⁹

⁶ See *Official Records of the General Assembly, Seventieth Session, Supplement No. 16* (A/70/16), chap. II.A.

⁷ *Ibid.*, chap. II.B.

⁸ *Ibid.*, chap. III.A.

⁹ *Ibid.*, chap. III.B.



General Assembly

Distr.: General
19 October 2015

Original: English

Seventieth session
Item 16
Culture of peace

Letter dated 16 October 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I have the pleasure to submit the report of the Islamic Republic of Iran on the implementation of General Assembly resolution 68/127, entitled "A world against violence and violent extremism", adopted on 18 December 2013 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 16.

(Signed) Gholamali Khoshroo
Ambassador
Permanent Representative



Annex to the letter dated 16 October 2015 from the Permanent Representative of the Islamic Republic of Iran addressed to the Secretary-General

In the Name of God, the Compassionate the Merciful

Measures taken by the Islamic Republic of Iran to boost the idea of "A world against violence and violent extremism"

In implementation of General Assembly resolution 68/127, entitled "A world against violence and violent extremism", adopted on 18 December 2013, the Government of the Islamic Republic of Iran has the pleasure to submit the present report.

1. Concerning the threats posed by terrorist and extremist groups such as Al-Qaida, ISIL, and al-Nusra Front in the sensitive region of the Middle East, particularly Syria and Iraq, the welcoming of the idea of "A world against violence and violent extremism" (WAVE), as proposed by the President of the Islamic Republic of Iran, Dr. Rouhani, by the Member States, as well as the adoption of General Assembly resolution 68/127, are indicative of the imperative of enhancing coordination and cooperation among members of the international community in order to counter this ominous phenomenon. The fact that members of certain international and regional organizations (including the Movement of Non-Aligned Countries, the Conference on Interaction and Confidence-building Measures in Asia and the Organization of Islamic Cooperation) welcomed the idea proposed by the President of the Islamic Republic of Iran and promoted in the resolution adopted by the General Assembly shows that the international community is resolved to counter terrorist and violent extremist groups.

2. Putting on its agenda the serious countering of terrorism and violent extremism at the national, regional and international levels, the Islamic Republic of Iran has always warned about the destructive consequences of such groups' activities, and it has always expressed its readiness to cooperate with members of the international community in order to launch an all-out war against such challenges.

3. Subsequent to the adoption of the said resolution (WAVE) by the General Assembly, and with regard to the widespread activities of ISIL and other extremist and terrorist groups in the region, various governmental and non-governmental bodies within the Islamic Republic of Iran have put on their agendas the implementation of the provisions of this resolution; some of the important measures taken in this regard are mentioned below.

4. For the purposes of standardization and mobilization of international capabilities to counter violence and extremism within the provisions of the above-mentioned resolution, the Foreign Ministry's Institute for Political and International Studies held the International Conference on a World Against Violence and Extremism on 10 and 11 December 2014 in Tehran, which was attended by political figures, elites and scholars from more than 50 countries. The attendees expressed their ideas about how to counter violence and extremism. In his opening speech at this conference, the President of the Islamic Republic of Iran, Dr. Rouhani, said that the universal approval of the idea of "A world against violence and extremism" and

its adoption by consensus in the General Assembly indicated the necessity and importance of dealing with violence in the world. He further said that in order to advance the fight against violence and extremism and to promote the culture of peace and tolerance, the world needed essential, momentous initiatives, the most important of which could be as follows:

(a) The expansion and deepening of dialogues among nations, Governments and civil societies with the aim of reducing misunderstandings and conflicts to reach further cooperation and mutual understanding;

(b) Efforts to promote public training, through the use of advanced educational and training methods in order to promote the culture of peace, mutual understanding, tolerance, the importance of the role of women, youth, religious scholars, intellectuals, academics, and artists in the promotion of religious and ethical beliefs, knowledge, and emotions;

(c) The elevation of cultural, political and economic cooperation in order to accelerate the collective fight against violence and extremism.

5. In his speech, Dr. Rouhani set forth 10 proposals for the purpose of fighting against the current terrorism and extremism in the region and the world, a summary of which is set out below:

(a) To object to those countries that have contributed to the formation, organization, and financing of terrorism in the region, and also to cooperate with countries that have fallen victim to terrorism (e.g., Iraq and Syria);

(b) To indemnify the victim countries for the damages incurred and to provide them with international aid to renovate their countries;

(c) To found an international fund and create jobs in order to boost the growth of investment in countries that have fallen victim to international terrorism so as to eliminate the economic ground for the expansion of terrorism;

(d) To launch regional cooperation to modify the general education system and seminaries in order to confront takfiri extremists and violent interpretations of religious teachings and, at the same time, introduce the truth about compassionate Islam to the people of the world;

(e) To ensure cooperation among regional countries in terms of exchange of intelligence for countering terrorism;

(f) To raise public awareness by national and international media concerning the threats posed by terrorists in order to prevent them from misusing unemployed, marginalized youths;

(g) To launch international cooperation to confront the terrorists' abuse of cyberspace and social media;

(h) To boost mechanisms for controlling and countering the movement of terrorists between countries;

(i) To modify the structures of the United Nations, in particular the Security Council, which have, in some cases, proved inefficient in countering the threats against international peace and security, hence encouraging the aggressors, frustrating the victims and paving the way for violent actions;

(j) To designate 18 December (the anniversary of the adoption of the resolution by the General Assembly in 2014) as the International Day of a World against Violence and Extremism, in order to commemorate the victims of this inauspicious phenomenon and to strengthen international resolve to fight violence and extremism.

6. The Islamic Republic of Iran's Islamic Culture and Relations Organization has taken the following measures during the past two years to fulfil its duties in terms of countering violence and extremism:

(a) Holding a conference on "A world free of violence and extremism" from the Abrahamic religions point of view, attended by Iranian and American scholars;

(b) Holding a conference on Islam and Buddhism for countering violence and extremism;

(c) Holding a meeting on cooperation of religions for just peace and a world free of violence;

(d) Holding a conference of Shiite and Sunni Muslim and Christian leaders and scholars in Rome;

(e) Holding the ninth round of religious talks between Iran's Islamic Culture and Relations Organization and the Vatican;

(f) Holding the first round of the religious meeting on the role of religious dialogue in countering violence and extremism, attended by Kenyan religious leaders;

(g) Holding the ninth round of dialogues between Islam and Christianity in order to reach common understanding;

(h) Holding the regional conference on "Dialogue between religions, development and peaceful coexistence", in Zimbabwe;

(i) Holding a conference on solutions for reaching a common understanding between Islam and Christianity, in Bosnia and Herzegovina;

(j) Holding an international scientific conference on a world free of violence and extremism, in Bosnia and Herzegovina;

(k) Holding a conference on the dialogue between religions and the role of believers in countering extremism, attended by scholars from the Harvard Divinity School;

(l) Holding an international conference on the role of Islam and Christianity in creating a world free of violence, in the Philippines;

(m) Publishing posters of the youth visual exhibit entitled "Violence against Gaza" in Ardabil, Iran;

(n) Hosting a visual exposition entitled "Peace and Islam" in the Niavaran cultural complex;

(o) Holding a meeting of "Peace and resistance", attended by artists from 23 countries;

(p) Holding an exhibition entitled "Deliverance of Gaza", with works of contemporary Iranian modernist artists, in the Visual Arts Centre;

- (q) Holding an exhibition of calligraphy on the subject of peace and Islam;
- (r) Hosting a joint exhibition with the United Nations about peace;
- (s) Performing a theatre piece entitled "A mourning for burning books", with anti-war themes;
- (t) Holding a visual exposition entitled "Writers on peace";
- (u) Holding an exhibit entitled "An eye for an eye", concerning social violence against women;
- (v) Playing Beethoven's Symphony No. 9 as the "Music for Peace";
- (w) Inaugurating an annual orchestra programme from October 2014 to October 2015 with the slogan of world peace.

7. The International Congress on Extremist and Takfiri Currents from the Viewpoint of Islamic Scholars was organized by Ayatollah Nasser Makaarem Shirazi and a number of scholars from seminaries on 23 and 24 November 2013 in Qom, Iran. The Shiite and Sunni religious scholars from various countries attended the congress and delivered speeches on the following subjects:

- (a) Countering the insurrection of takfir (i.e., excommunication) in the Islamic world;
- (b) Invitation to peace, friendship, brotherhood and interaction among denominations based on wisdom, advice and amicable argument;
- (c) Attempting to make Muslims aware of the heinous nature of takfiri currents;
- (d) Creating a unified line and expanding grounds for Muslims' convergence against takfir or excommunication;
- (e) Attempting to identify and make known the supporters and sponsors of takfiri currents in the world.

8. In the statement of the seventh religious meeting of the Centre for Dialogue among Religions, affiliated with Iran's Islamic Culture and Relations Organization and the World Council of Churches, which was held in Tehran on 15 and 16 February 2014, the following points were emphasized:

- (a) The importance of believing in an identical, common God as the essential pillar of spirituality and the key solution to principal problems of humanity;
- (b) Dialogue among religions provides a vital way to the establishment of peace and security and a world free of violence and extremism;
- (c) The commitment of Islam and Christianity to cooperation for the purpose of promoting peace throughout the world;
- (d) Peace and friendship can be reached through paying respect for the diversity of cultures and religions and a common commitment to ethics and spirituality; also, effective dialogue can serve as an important tool to confront the words and actions of those who provoke religious hatred or intentionally try to desecrate others' sanctities;

(e) The resolution adopted by the General Assembly entitled "A world against violence and violent extremism", emphasizing the role of religious scholars in the prevention of violence and extremism, was welcomed.

9. In order to boost Islamic unity and to counter the activities of extremist, takfiri currents, the World Forum for Proximity of Islamic Schools of Thought has taken various measures, including the following:

(a) Holding the twenty-seventh international Islamic unity conference, on the theme "The Holy Quran and its Role in the Islamic Nation's Unity";

(b) Holding the twenty-eighth international Islamic unity conference, on the theme "The United Islamic Nation: Challenges and Solutions";

(c) Holding the regional conference of unity, on the theme "The Islamic World from Takfir (excommunication) to Resistance", in Bojnourd;

(d) Holding a conference on the theme "Imamate in Islam: An Approach to Establishing a United Islamic Nation", in Kermanshah province;

(e) Holding the regional conference on the role of Islamic scholars in formation of the united community, or ummah, in West Azerbaijan province;

(f) Participation in holding the conference on the theme "The Holy Prophet: the Axis of Unity of the Islamic Ummah", in Birjand;

(g) Holding four special training courses for Shiite and Sunni teachers in Golestan, North Khorasan, Sistan and Baloochestan, and West Azerbaijan provinces;

(h) Participation in holding the conference on the theme "Hope and Security: the World Feeling the Need", attended by Sunni elites;

(i) Distribution in religious and academic centres of the book entitled "A Critical Review of Takfiri Thought".

10. In order to boost the legislative capacity of the country to counter violence and extremism, the Judiciary of the Islamic Republic of Iran has put on its agenda the codification of new provisions in the discretionary punishments bill. According to Articles 287, 288 and 289, if any individual or group attempts, through the provocative act of disseminating false information, any extremist or takfiri activities such as religious, ethnic or racial ones to the extent that it should lead to hatred of other ethnicities or races or violence against followers of other monotheistic religions, as recognized in the Constitution, such individual or group shall be punished. In addition to determining the extent of the punishment designated for these crimes, the said Articles have also specified how to identify the instances of takfiri, devious and sectarian crimes.

11. The Iranian Association for United Nations Studies, in association with the United Nations Information Centre in Tehran, the National Committee of Humanitarian Rights of the Islamic Republic of Iran Red Crescent, as well as the International Committee of the Red Cross held the specialized meeting on the United Nations and the idea of a world against violence and extremism, on 19 February 2014. At this meeting, the United Nations Resident Coordinator in Tehran, Ms. Yelena Plumnuck from the Prosecutor's Office of the International Criminal Court as well as a number of university professors and scholars delivered speeches on the following topics:

- (a) The theoretical foundations of WAVE: peace, dialogue, and the rule of law;
- (b) The importance of education in sustainable confrontation with violence and extremism;
- (c) The role of the religions in countering religious violence and extremism;
- (d) The prohibition of violence and extremism in international humanitarian law;
- (e) Capacity assessment of the international humanitarian law system with regard to countering religious extremism and violence;
- (f) The relationship between poverty and social inequality and violence and extremism;
- (g) Transregional players and extremism.

12. On 22 September 2014, on the occasion of the International Day of Peace, the Iranian Association for International Studies, in association with the United Nations Information Centre, held a conference on the theme "ISIL's takfiri terrorism and threats against peace". The Head of the Iraq Headquarters in the Islamic Republic of Iran Ministry of Foreign Affairs, the United Nations Resident Coordinator in Tehran and Dr. Deheshyar (a university professor) delivered speeches at this conference.

13. Attempting to exploit the scientific capacities of professors, students and researchers to promote the idea of "A world against violence and extremism" (WAVE) and the related General Assembly resolution, the International and Cultural Studies Centre of the University of Tehran held two international conferences on the theme, attended by prominent professors, elites, scholars, theoreticians, researchers and students. The first conference was held in association with the Movement of Non-Aligned Countries Centre for Human Rights and Cultural Diversity on 13 October 2014. The following papers were presented at this conference:

- (a) Text, hypertext, and transnational commitments related to the WAVE resolution;
- (b) Peace-oriented mind in Islam;
- (c) Violence and anti-violence: Islam or Muslims?;
- (d) WAVE, human rights and government's international responsibility;
- (e) Religious extremism in the region;
- (f) The denunciation of extremism in the Holy Quran;
- (g) Violence and extremism in the region;
- (h) Radicalism and globalization;
- (i) The development of international political violence after the Second World War;
- (j) The role of regional cooperation in fighting violence and extremism.

14. The main subjects on the agenda of the second conference on a world against violence and extremism, which was held in October 2014, were as follows:

- (a) The role of dialogue among religions and civilizations in fighting violence and extremism;
- (b) Combating religious extremism in the region (focusing on ISIL);
- (c) Technical and legal solutions to the elevation of the WAVE resolution;
- (d) The role of regional and international cooperation in fighting violence and extremism;
- (e) The role of education and training in fighting violence and extremism;
- (f) The role of media in fighting violence and extremism;
- (g) The role of culture and art in fighting violence and extremism;
- (h) Terrorism, security, poverty, violence and extremism;
- (i) Ethnocentrism, violence and extremism;
- (j) Moderation vis-à-vis violence and extremism.

15. The first arts and culture festival on the subject of "A world against violence and extremism", with the aim of promoting the culture of peace, was held from 18 to 22 May 2014 by the International and Cultural Studies Centre of the University of Tehran, in association with the University of Tehran; the Ministry of Science, Research and Technology; the United Nations Educational, Scientific and Cultural Organization; the National Library and Archives of the Islamic Republic of Iran; and the Vice-Presidency for Women and Family Affairs; and with the participation of artists, academics and peace activists. In this conference, in addition to the involvement of various artistic fields such as painting, calligraphy, poster, photography, short film, music, and collage in the children's section, various specialized meetings were held which dealt with subjects such as the environment, globalization and the role of culture, art, media, literature, women and citizens in fighting violence and extremism. The next conference on the subject of peace is to be held with the participation of prominent artists and scholars from Iran and other countries of the world, in Tehran from 13 to 17 December 2015.

16. In May 2015, the National Library and Archives of the Islamic Republic of Iran held a conference on a world free of violence in Emam Khomeini's view, which was attended by more than 400 political, scientific and cultural figures from various countries. The conference intended to throw light on the lofty ideals of the Islamic Revolution's late leader in the arena of foreign policy, with a focus on a world free of violence. Also, the foreign headquarters of the Emam Khomeini commemoration ceremony as well as the Institute for Compilation and Publication of Imam Khomeini's Works contributed to the holding of this conference.

17. The attendees at the twenty-seventh International Islamic Unity Conference, which was held in December 2013, formed "A world free of violence commission" in order to emphasize the President's WAVE suggestion at the United Nations. The commission made it clear that a world without violence and a life full of peace and justice was the motto and wish of Islam.

18. The Independent Designers Society held an exposition entitled "A world free of violence" in December 2014, to promote peace and calm and to renounce any extremism. For this purpose, designers who were interested in participating in the

exposition were asked to express their own interpretation of this motto in the form of posters. A jury identified the top 10 posters of 110 received.

19. The International Conference on a World Free of Violence and Extremism was also held by Iran's cultural attaché in Bosnia and Herzegovina, in association with certain political and social institutions of that country; the conference, attended by professors, theoreticians and researchers from Serbia, Croatia and Iran, was held in the Bosniak Institute amphitheatre on 10 December 2014. The speeches revolved around the foundations of extremism, the Islamic Republic of Iran's views on violence and extremism, dialogue among religions and civilizations, the role of social and economic development in the prevention and control of environmental extremism and violence and so forth. The papers presented at the conference were published as a book in Sarajevo, as a result of efforts made by Iran's cultural attaché and the Ibn Sina Institute.

20. Iran's cultural attaché in Uganda, in association with Kampala University and the Inter-Religious Council of Uganda, held the first specialized meeting on the topic "The role of religious moderation in reaching a world free of violence". The meeting was held on 16 June 2014 in the conference hall of the Inter-Religious Council of Uganda and was attended by 30 leaders, elites, academics and non-governmental organizations active in the field of religions including Islam, Christianity, Judaism, Hinduism and Buddhism.



General Assembly

Distr.: General
21 October 2015

Original: English

Seventieth session

Agenda item 133

Programme budget for the biennium 2014-2015

Capital master plan

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the thirteenth annual progress report of the Secretary-General on the implementation of the capital master plan (A/70/343). The Committee also had before it the report of the Board of Auditors on the capital master plan for the year ended 31 December 2014 (A/70/5 (Vol. V)) and the related report of the Secretary-General on the implementation of the recommendations of the Board (A/70/338 and Corr.1, sect. III).

2. During its consideration of the above-mentioned reports, the Advisory Committee met with the Under-Secretary-General for Management and other representatives of the Secretary-General, in addition to the Chair and members of the Audit Operations Committee of the Board of Auditors. The Secretariat provided additional information and clarification, concluding with written responses received on 6 October 2015.

3. The thirteenth annual progress report is submitted pursuant to General Assembly resolution 57/292. The Secretary-General presents therein an update on the capital master plan project since his twelfth annual progress report (A/69/360), including his responses to the requests of the Assembly contained in resolution 69/274 A. In the present report, the Advisory Committee reflects on the main recommendations raised in the report of the Board of Auditors (sect. II) and discusses matters related to the project schedule and scope (sect. III), project requirements, financial status and associated costs (sect. IV) and the interim measures related to functions housed in the Dag Hammarskjöld Library and South Annex Buildings (sect. V).

4. The Advisory Committee recalls that the General Assembly, in section VIII of its resolution 69/274 A, inter alia: (a) reaffirmed its commitment to the renovation of the Dag Hammarskjöld Library and South Annex Buildings and requested the



Secretary-General to submit to the Assembly for its consideration and approval future proposals relating to the renovation of those two buildings as separate projects outside the scope of the capital master plan through established procedures; and (b) recognized the need to fund the final shortfall of the capital master plan project in the amount of \$154,852,400, decided to appropriate that amount to the General Fund and authorized the Secretary-General to credit the same amount to the capital master plan fund.

II. Report of the Board of Auditors on the capital master plan for the year ended 31 December 2014

5. The report of the Board of Auditors on the capital master plan for the year ended 31 December 2014 (A/70/5 (Vol. V)) is submitted pursuant to General Assembly resolution 57/292, in which the Assembly requested an annual report from the Board. In the report, the Board assesses the progress made, as at 31 March 2015, in the areas of project costs, project schedule and scope, handover, and maximizing the project's benefits. Key findings by the Board are presented in the summary of the report. The five recommendations of the Board are contained in paragraph 17 (a)-(e) in the summary of its report and the responses of the Secretary-General are provided in section III of his report on the implementation of the recommendations of the Board (A/70/338 and Corr.1).

Overall progress and assessment

6. The key stages in the development of the strategy and budget for the delivery of the capital master plan are summarized in figure 1 in the report of the Board of Auditors (A/70/5 (Vol. V)). The Board notes that since its previous report on the project in 2014, developments on the project included the following (ibid., sect. A, para. 4): (a) the General Assembly Building was substantially completed in September 2014 (residual work on the north basement area was substantially complete in December 2014); (b) the North Screening Building was substantially completed, with operational handover in September 2014; and (c) the Secretariat Building was certified as complete and final handover occurred in May 2015. **The Advisory Committee concurs with the Board of Auditors that the substantial completion of the General Assembly Building in September 2014 against a compressed timetable to allow for the holding of the general debate of the sixty-ninth session of the Assembly in the General Assembly Building was a significant achievement given the disruption caused by earlier project delays and the impact of Storm Sandy** (ibid., summary, para. 6).

7. The Board of Auditors further notes that the capital master plan project, including all residual capital works, is now expected to be completed in December 2016, approximately three years later than originally planned under accelerated strategy IV (see also para. 24 below) and that the project will end without renovating the Library and South Annex Buildings as initially envisaged (see sect. V below).

8. The Board of Auditors reports that the residual works of the project have an estimated cost of \$35 million, including: (a) the demolition of the temporary North Lawn Building and site landscaping; and (b) the works related to the service drive on 42nd and 48th Streets (A/70/5 (Vol. V), summary, paras. 7, 8 and 15). In

addition, the Board indicates that the Administration has introduced new works since its previous report, namely, the interim arrangements for relocating the functions of the South Annex Building and for limited works to the Library Building, at an estimated cost of \$14 million, to be met from within the existing capital master plan budget (see para. 11 (b) below). The combined requirements until the completion of the project are therefore estimated at \$49 million (see para. 45 below).

Projected final costs

9. In section VIII of its resolution 69/274 A, the General Assembly noted that the final cost of the capital master plan project, as presented by the Secretary-General, was \$2,304.8 million¹ (see para. 49 below). That amount reflected the decision of the Assembly to remove the Dag Hammarskjöld Library and South Annex Buildings from the scope of the project. The Board of Auditors notes that the \$65 million budgeted for the two buildings was used to meet cost increases for other buildings that remained within the scope of the project to avoid an additional assessment on Member States. The Board points out that while the anticipated cost overrun therefore appears to have been reduced by \$65 million, it is important to note that this is the cost of delivering a significantly reduced project scope (the renovation of three buildings instead of five) at a higher cost than originally planned (A/70/5 (Vol. V), summary, para. 4).

10. The Board of Auditors observes that although the overall total anticipated final construction cost may not have changed, there have been considerable changes in the cost of sub-elements of the project since the Board last reported (*ibid.*, sect. B, para. 14). The estimated cost of residual capital works to be delivered by the Office of Central Support Services has increased by \$8.5 million since 2014, which includes the following (*ibid.*, table 4):

(a) The Administration initially reported an estimated cost for demolition of the temporary North Lawn Building of \$1.9 million; however, the estimated net cost² has now increased to \$15.4 million (see paras. 34-38 below);

(b) The estimated costs for landscaping and works related to the service drive at 42nd and 48th Streets have been reduced by \$3.0 million and \$2.0 million, respectively.

11. The Board of Auditors also notes other factors that may affect the cost estimates of the project, consisting of (A/70/5 (Vol. V), sect. B, paras. 15-20):

(a) A large number of change orders to contracts (approximately 4 300 as at March 2015);³

¹ \$2,309 million reported by the Board of Auditors as the gross costs of the capital master plan project, which includes \$4.2 million for the secondary data centre funded from the support account for peacekeeping operations (A/70/5 (Vol. V), summary, para. 3).

² The reported cost is the estimated net cost of demolition and excludes assets the contractor is allowed to retain.

³ According to the Board of Auditors, in response to uncertainties related to the condition of the buildings, the Administration adopted a strategy that allowed construction work to begin using incomplete designs rather than await complete, detailed design documents. The approach added risk, uncertainty and cost to the project.

(b) The Administration has changed its position of 2014 that any plan to relocate the functions of the Library and South Annex Buildings could not be funded by the capital master plan and would require additional funding (the related amount of \$14 million was not included in the anticipated final cost reported in the twelfth annual progress report). Rather, the Administration has confirmed it can now be funded by utilizing project funds that were earmarked to cover potential shortfalls in amounts recovered from insurers for damage caused by Storm Sandy, which are no longer required;⁴

(c) There is no contingency available to mitigate any future cost pressures of the remaining works, as the contingency provision was depleted in June 2014;

(d) As at June 2015, 11 of the 24 contracts remained open, with works still ongoing as part of the final handover. While risks may decrease with activity nearing completion, there remains the risk of potential additional costs during the close-out of remaining contracts from change orders and possible claims from contractors.

12. The Board of Auditors has repeatedly questioned the reliability of the Administration's approach to estimating the costs of the project (*ibid.*, paras. 13 and 20). According to the Board, the Administration has only partially implemented the Board's previous recommendations in its approach to forecasting. In the view of the Board, wide variations in cost estimates over time undermine confidence in their reliability. Given the inaccuracy of previous cost estimates, the Board is of the view that the Secretariat should assure itself that the \$49 million to deliver the remaining works is a reasonable forecast. In addition, the Board observes that the anticipated final construction cost had not been changed since December 2013 until March 2015 when the General Assembly decided to remove the Library and South Annex Buildings from the project (see para. 4 above).

Capital master plan benefits realization

13. Section VI in the thirteenth annual progress report (A/70/343) contains information related to the benefits of the capital master plan as deemed achieved by the Secretary-General. He indicates therein that the project delivered the results and benefits expected by the Member States in accordance with relevant resolutions of the General Assembly. After the completion of the capital master plan, the Headquarters complex is energy efficient, free of hazardous materials and compliant with host city building, fire and safety codes, and it provides full accessibility to all persons (*ibid.*, paras. 26 and 31).

14. The Board of Auditors confirms that some project benefits are immediate and evident: the renovated buildings and basements now provide a more modernized working environment operated by more sophisticated systems and equipment while providing improved security for much of the campus. Those improvements were delivered while retaining important architectural and aesthetic heritage and maintaining business-as-usual operations (A/70/5 (Vol. V), sect. E, para. 45).

⁴ According to the Board of Auditors, the Secretary-General had previously reported to Member States a total insurance coverage of \$150 million, of which a \$148.9 million claim would be submitted (see A/67/748). Information provided to the Board indicates that while the level of coverage and the claim are lower than that reported, the eventual settlement has covered the Organization's losses.

15. However, as the Board of Auditors previously reported, the expected outcomes of the project were qualitative and ill-defined and lacked an objective measure to judge success and to calculate a return on investment (*ibid.*). The Advisory Committee notes that one issue related to some of the project's quantifiable benefits is how those benefits are measured and what evidence is provided to prove that those quantifiable benefits have indeed been achieved. The Secretary-General indicates in his thirteenth annual progress report that the benefits that have been delivered by the project include a minimum 50 per cent reduction in energy consumption, a 45 per cent reduction in greenhouse gas emissions related to energy consumption and a 40 per cent reduction in fresh water consumption (A/70/343, para. 31). Upon enquiry, the Advisory Committee was informed that the above-mentioned reductions in energy and fresh water consumption are projections based on engineering models.

16. In this connection, the Advisory Committee recalls that various explanations have been offered by the Secretariat on different occasions for the lack of progress made towards demonstrating the sustainability goals for energy under the capital master plan, specifically the following:

(a) In its consideration of the proposed programme budget for 2016-2017, the Committee was informed that the requirements for electricity at Headquarters were not expected to decrease and that a provision of \$25,929,900⁵ was included in the budgetary proposals for 2016-2017 for utility costs (including \$20,885,800 for electricity). It was informed that, while an overall reduction in energy consumption had been recorded, the expenditures for electricity were expected to remain at current levels owing to the switch made from steam to electricity-based cooling (the cost of electricity was proportionally higher than that of steam). In addition, the Office of Central Support Services expected the ongoing construction-related projects to be implemented in 2016 to also have an upward impact on energy consumption (A/70/7, para. VIII.96);

(b) During its consideration of the thirteenth annual progress report, the Advisory Committee was informed upon enquiry that it would only be possible to meaningfully compare consumption before and after the capital master plan after the removal of the temporary North Lawn Building, because the energy and water currently consumed by the temporary North Lawn Building was not separable from that consumed by the remainder of the buildings at Headquarters (see also para. 16 (c) below). The information requested by the Advisory Committee would only be available upon the completion of an annual billing cycle following the removal of the North Lawn Building to allow a full reflection of seasonal variations;⁶

(c) The Board of Auditors was informed in its previous audit that the Secretariat intended to start reporting energy efficiencies by the end of 2015, as it was installing equipment and systems to collect data on utility consumption and

⁵ The Secretary-General indicates in his report contained in document A/55/117 (para. 7), *inter alia*, that United Nations energy costs, already among the highest in New York City, would continue to rise from an estimated \$10 million in 2001 to a projected \$28 million in 2027 (without undertaking the capital master plan project).

⁶ The Advisory Committee notes from the information it received upon enquiry that the Economic and Social Commission for Asia and the Pacific (ESCAP) maintains detailed records of energy consumption on a floor-by-floor basis and that any energy savings attributable to the proposed project at ESCAP would be validated through real comparative data.

intended to assess performance against consumption prior to the project by each individual building (A/69/5 (Vol. V), sect. D, para. 54). In its latest audit, the Board was informed that as at March 2015, the building management systems that would collect data on utility consumption and energy efficiency were not fully operational and that it was not therefore possible at the present stage to measure the extent to which the expected benefits had been delivered (A/70/5 (Vol. V), sect. E, para. 46).

17. **The Advisory Committee notes that the stated benefits achieved from the capital master plan, namely, a minimum 50 per cent reduction in energy consumption, a 45 per cent reduction in greenhouse gas emissions related to energy consumption and a 40 per cent reduction in fresh water consumption, are projections based solely on engineering models and have not been substantiated. Furthermore, the Committee is of the view that the explanations provided by the Secretary-General and described in paragraph 16 (a)-(c) above are not consistent. Moreover, with the substantial completion and functioning of the three buildings that remain in the scope of the capital master plan (the Secretariat Building in September 2012, the Conference Building in February 2013 and the General Assembly Building in September 2014), the Committee is of the view that data on utility consumption should have already been made available to benchmark the benefits achieved against utility consumption patterns prior to the capital master plan.**

18. Upon enquiry, the Advisory Committee was informed by the Board of Auditors that the Board was unable to examine energy performance at the time of audit and that a review of the benefits described in the thirteenth annual progress report of the Secretary-General would be a major element of its next audit. The Committee notes the lack of data to validate some of the quantifiable benefits stated in the thirteenth annual progress report. **The Advisory Committee points out that all of the quantifiable benefits reportedly derived from the capital master plan should be substantiated. The Committee therefore recommends that the General Assembly request the Secretary-General to provide data in this regard to the Board of Auditors during the next annual audit of the capital master plan.**

19. Furthermore, the Board of Auditors indicates that the Administration needs to demonstrate the benefits of the \$2.3 billion investment made by Member States and that the achievements of the project should include the financial and non-financial benefits of the capital master plan, including an objective assessment of achievement against the stated outcomes (ibid., para. 45). **The Advisory Committee reiterates its recommendation that the General Assembly request the Secretary-General to continue to report on the actual project benefits, as compared with the planned benefits, in the next annual progress report and in the final report on the implementation of the capital master plan (A/69/529, para. 15; see also para. 50 below).**

20. The Board of Auditors is also of the view that a wider benefit to be exploited is the experience and lessons learned from the capital master plan (A/70/5 (Vol. V), sect. E, para. 48). The Board indicates that as the Administration embarks on a series of capital projects, it is particularly important in a context of fiscal constraint to minimize cost overruns and optimize the value of contributions from Member States. According to the Board, unlike most organizations, the United Nations does not have an established approach for managing and assuring delivery of major projects, making embedding the lessons problematic (see para. 23 below). The

Board has published a paper on lessons from the capital master plan drawing on their wider knowledge of best practice of major projects.

Paper of the Board of Auditors on lessons from the capital master plan

21. The Board of Auditors issued a paper on lessons from the capital master plan in December 2014,⁷ drawing on its work on the project for the past 11 years and wider knowledge of best practice. The Board has observed therein that delivering more with the same resources is a capability that the United Nations will need to develop going forward, with cost overruns on major projects becoming less acceptable and the waste of scarce resources even less so. The Board expresses the hope that the paper is of value to management, to those charged with governance and to the representatives of Member States with responsibility for oversight of the funding provided to such projects.

22. The paper issued by the Board of Auditors covers eight themes: whole lifecycle asset management; getting the best possible start; governance, controls and assurance; roles within a programme lifecycle; commercial and procurement strategies; risk and contingency management; cost, time and outcome forecasting; and portfolio management and organizational capability. The paper highlights some of the more important and systemic lessons that apply both at a project-specific level and at the corporate level. The Board expresses the view that the United Nations would benefit strongly by learning the lessons in a few key areas. In the view of the Board, it is vital that major projects make a successful start as experience shows it is difficult and costly to recover. Best practice is to hold any major project to a very high level of scrutiny and independent expert assurance before any decision is taken to start or to initiate each major phase during the project lifecycle. This requires effective governance and decision-making from the outset, with accountabilities and authority aligned and clearly assigned risk and contingency transparently and explicitly at the heart of the delivery strategy, and a collaborative and integrated project team and supply chain. **The Advisory Committee welcomes the paper issued by the Board of Auditors on lessons from the capital master plan.**

23. In this connection, the Advisory Committee notes that the Board has acknowledged that there are initial signs that the strategic heritage plan is embedding lessons learned from the capital master plan in the approach to delivering the early stages of the project, such as including associated costs within the budget from the outset (A/70/5 (Vol. V), sect. E, para. 48). Furthermore, the Committee recalls that it was informed during its consideration of the proposed programme budget for 2016-2017 that the Secretariat was in the process of developing guidelines for the management of construction projects, expected to be completed in December 2015, after which the Secretariat would institute a standardized approach to contingency planning and management (A/70/7, para. XI.20). **The Advisory Committee welcomes the efforts being carried out by the Secretary-General to develop guidelines for the management of construction projects of the Organization and looks forward to the completion of the guidelines in December 2015. The Committee reiterates the importance**

⁷ United Nations Board of Auditors, "Lessons from the United Nations capital master plan", December 2014. Available from <http://www.un.org/en/auditors/board/pdfs/Lessons%20from%20the%20Capital%20Master%20Plan.pdf>.

of identifying, documenting and applying lessons learned in future large-scale capital projects (A/69/529, para. 16).

III. Project schedule and scope

24. The Secretary-General describes the capital master plan as a recently completed project in his thirteenth progress report (A/70/343, para. 1), with several minor post-renovation construction activities that have extended beyond the life of the Office of the Capital Master Plan, which closed in July 2015. However, in the same report, he acknowledges that the temporary North Lawn Building will be demolished in accordance with the mandated scope of the project, and states that the remaining activities will be managed by the Office of Central Support Services with projected completion in late 2016 (*ibid.*, paras. 6 and 15). The Advisory Committee sought clarifications on the status of the project from the Board of Auditors and was informed that the capital master plan is still active as a number of activities within the approved scope of the project have not yet been completed. Following the closure of the Office of the Capital Master Plan, the Office of Central Support Services has assumed responsibility for completing the project, including some capital works, specifically: (a) demolition of the temporary North Lawn Building, which will begin in October 2015; (b) landscaping, which will occur in the second quarter of 2016 following the demolition of the North Lawn Building; and (c) works on the service drive at 42nd and 48th Streets, which is expected to take 12 months and be completed by December 2016. Furthermore, the Committee was informed that while the main buildings (Secretariat, General Assembly and Conference Buildings) were substantially completed by September 2014, which essentially meant the buildings were available for use, punch-list/remedial works are still being undertaken (see also para. 51 below). Figure IV in the report of the Board shows the original versus the revised schedule to complete the project (A/70/5 (Vol. V), figure IV). **The Advisory Committee concurs with the Board of Auditors that the capital master plan is an ongoing project.**

25. The Advisory Committee also sought clarifications on the status of the project from the Secretariat, which confirmed the remaining scope of the activities of the capital master plan. In addition, upon enquiry, the Committee was informed by the Secretariat that all other aspects of the project's scope, as approved by the General Assembly, have been completed or will have been completed by late 2016, apart from the renovation of the Library and South Annex Buildings as approved by the Assembly (see sect. V below).

Management of the remaining activities by the Office of Central Support Services

26. The Secretary-General indicates that as part of the succession planning, technical and substantive expertise gained by staff of the capital master plan was retained by transferring them to supplement staff in the Office of Central Support Services for the completion of the remaining scope (A/70/343, para. 24). However, the Advisory Committee notes that the Secretary-General does not provide information in his thirteenth annual progress report on the number of staff retained from the Office of the Capital Master Plan by the Office of Central Support Services.

27. The Advisory Committee recalls that it was informed that only one staff member from the project team, two at most, and a portion of capital master plan funds would be retained at the time of the closure of the Office of the Capital Master Plan for the remaining activities (A/69/529, para. 26). However, the Committee notes from the report of the Board of Auditors that a total of eight staff members, three contractors and 20 consultants have been retained from the Office of the Capital Master Plan at an estimated cost of \$2.76 million (A/70/5 (Vol. V), sect. C, para. 30). Upon enquiry, the Committee was informed by the Secretariat that while 20 consultants from the capital master plan project management firm are engaged, some are on only a part-time basis (equivalent to 14 consultants on a full-time basis) in the following areas: one in cost estimating, five in project management, four in cost management and four in document management. Upon enquiry, the Committee was also informed by the Board that the related information was presented to the Board by the Administration late in its audit report clearance process and the work actually performed by the consultants (at a total cost of \$1.76 million for contracts until the end of 2015) had not yet been subject to audit. The Board notes that the engagement of the above individuals augments the specialist resources available to the Office of Central Support Services to conclude the capital master plan project.

28. Upon further enquiry, the Advisory Committee was informed that, currently, the contract for the 20 consultants is due to expire by the end of December 2015. It is expected, however, that personnel resources from the project management firm may be necessary to support the Office of Central Support Services in delivering the remaining activities through December 2016 (see para. 51 below for detailed activities). **The Advisory Committee notes the substantial difference in the estimated versus actual number of personnel retained by the Office of Central Support Services, in addition to the prolonged duration of their engagement until December 2016 as currently anticipated. The Committee trusts that the Secretary-General will provide to the General Assembly detailed information on the number, functions, cost and funding of all personnel from the Office of the Capital Master Plan, including staff, contractors and consultants, who would be required to support the Office of Central Support Services until December 2016, at the time of its consideration of the thirteenth annual progress report.**

Demolition of the temporary North Lawn Building

Further delayed timeline for the demolition

29. The Advisory Committee recalls that at the time of its consideration of the twelfth annual progress report of the Secretary-General, it pointed out that the proposed delay in completion of the demolition of the temporary North Lawn Building to late 2015 and the site landscaping thereafter represented a further delay, compared with the schedule reported in the Secretary-General's update to his eleventh annual progress report (see A/69/529, paras. 27 and 28). In this regard, the Committee notes from the thirteenth annual progress report that the demolition project is once again delayed, with an expected start date in October 2015 and completion in early 2016, followed by landscaping to be completed by late 2016, depending on successful contractual negotiations with the selected vendor (A/70/343, para. 15).

30. The Advisory Committee sought justifications for the decision by the Secretariat to continue to delay the demolition of the temporary North Lawn Building to October 2015 after the general debate of the General Assembly, but did not receive satisfactory responses. Upon enquiry, the Committee was informed that the Secretariat considers that the timeline of the planned demolition of the building as presented in the thirteenth annual progress report is in line with the decision of the General Assembly in resolution 69/274 A (sect. VIII, para. 10). **The Advisory Committee does not consider that the further delayed timeline for the demolition of the temporary North Lawn Building as presented in the thirteenth annual progress report is in line with the decision of the General Assembly in resolution 69/274 A. The Committee notes with concern that the demolition of the temporary building, which is within the scope of the capital master plan project, has been repeatedly delayed. The Committee recalls that the Assembly reaffirmed its support for the timely deconstruction and removal of the temporary North Lawn Building in its resolution 69/274 A. The Committee is of the view that the Secretary-General should implement the decision of the Assembly without further delay.**

31. The Secretary-General indicates that as at the date of preparation of his thirteenth annual progress report, planning for the demolition and removal of the building was under way, and that a request for proposals has been issued to vendors. Upon enquiry, the Committee was informed that a single contract had been awarded for the demolition of the temporary North Lawn Building and the landscaping of the North Lawn.⁸ The selected contractor would mobilize preparatory work for the demolition from late October to December 2015, including installing the necessary protection for staff safety and for United Nations artwork. The departments and offices currently occupying space in the building would be relocated to other spaces during this period.⁹ The process of physical demolition of the building would commence in late December 2015. While the Committee notes from the report of the Board of Auditors that a 10-month timeline was estimated earlier (seven months for demolition and three months for site landscaping) (A/70/5 (Vol. V), table 8), it also notes that such information is not available in the thirteenth annual progress report.

32. With respect to plans for the landscaping of the North Lawn, the Advisory Committee was informed, upon enquiry, that after the completion of demolition of the temporary North Lawn Building, the site landscaping would restore the North Lawn to its state before the start of the capital master plan. This would entail relocation of soil, replanting of grass and trees, reinstallation of exterior gifts and re-establishment of pathways and lighting.

⁸ The Secretariat indicated in 2014 that there would be separate solicitation processes for the demolition and landscaping work in compliance with the established procurement process and procedures (A/69/529, para. 27).

⁹ The Advisory Committee was informed that offices, classrooms, and storage are currently housed in the North Lawn Building. The following offices and departments occupy space in the Building: Executive Office of the Secretary-General, Department for General Assembly and Conference Management, Department of Management (Umoja Headquarters deployment group), Department of Political Affairs, Department of Safety and Security and Office for Disarmament Affairs. In addition, during the general debate of the seventieth session of the General Assembly, space in the building was used for a media centre and for meetings and overflow of meetings.

33. **The Advisory Committee requests that information on the precise timeline and the scope of work for the demolition of the temporary North Lawn Building and subsequent site landscaping, as specified in the contract awarded, be provided to the General Assembly at the time of its consideration of the thirteenth annual progress report.**

Demolition cost increase

34. The Advisory Committee enquired as to whether the delay in demolition of the temporary North Lawn Building could have cost implications and was informed that it was not expected that the proposed commencement of demolition in late 2015 would result in any cost implications aside from possible minor market fluctuations related to the host city construction industry.

35. Concerning the increase in the demolition cost from \$1.9 million to \$15.4 million reported by the Board of Auditors (see para. 10 (a) above), the Advisory Committee notes that this information is not provided in the thirteenth annual progress report. Rather, the Secretary-General indicates therein that as at 30 June 2015, there was no anticipated increase in the overall project budget and that no potential increases in project costs or changes in the volume or scope of the work were anticipated at that time (A/70/343, paras. 71 and 79). Upon request, the Committee was informed that while the initial demolition cost of \$1.9 million was based on high-level assumptions at an early stage and information available at the time, the final projection was subsequently established based on development of the design, taking into account additional information. **The Advisory Committee points out that the thirteenth annual progress report of the Secretary-General should have included information on significant cost changes related to the activities within the scope of the capital master plan, as well as information on how such changes are accommodated within the approved budget.**

36. Upon enquiry, the Advisory Committee was informed that according to the Secretary-General, since the revised estimated cost increase was within the overall construction costs, there was no impact on the budget of the project. The Committee sought clarification as to what components of the project had been decreased in cost in order to accommodate the cost increase for the demolition, but was informed, instead, that the cost of the demolition was met in full within the existing budget and that the difference had been accommodated within the overall remaining balances resulting from various reduced costs of the ongoing construction activities. **The Advisory Committee considers that the information provided by the Secretariat is insufficient and requests that the related information be provided to the General Assembly at the time of its consideration of the thirteenth annual progress report.**

37. The Advisory Committee also enquired as to whether some of the cost increase could be attributed to potential out-of-hours working by the contractor in order to minimize noise disruption to activities in the other buildings. The Committee was informed that: (a) the demolition of the temporary North Lawn Building will take place during regular construction hours, both as a cost-saving measure and to honour host city regulations regarding after-hours construction noise; (b) the Secretariat does not anticipate that the demolition work will affect meetings of the General Assembly, owing to the distance from the North Lawn Building to the conference facilities in the General Assembly and Conference Buildings and

because the structures of the North Lawn Building and the other buildings on campus are not interconnected; and (c) the Secretariat will take action to manage any noise disturbances that do occur and recalls that construction work of the capital master plan was occasionally interrupted when it affected ongoing meetings.

38. The Advisory Committee also sought information from the Board of Auditors and was informed that it remained unclear to the Board why the revision of the initial cost estimate was left until 2015, when the main factors giving rise to the increased estimate could have been taken into consideration earlier. The Board has repeatedly raised concerns about the Administration's approach to cost forecasting (see paras. 9-12 above). With respect to the reasonableness of the estimated cost increase, the Committee was informed upon enquiry that the Board employed a civil engineer within its team to advise on the reasonableness of the estimated cost of the demolition work. Although the civil engineer did not identify any major concerns with the overall estimated cost, it was difficult to reach firm conclusions as the detailed contract specifications were not available.

Security-related work at 42nd and 48th Streets

39. The security-related work at 42nd and 48th Streets includes reconfiguration of the north and south entrances to the service drive to accommodate a loading dock at 48th Street and revised traffic patterns at 42nd Street (A/70/343, para. 17 (c)). The Advisory Committee notes that the security-related work at 42nd and 48th Streets is another component of the capital master plan project that has been delayed. The Committee recalls: (a) that in March 2014, the Secretary-General indicated that the completion date of the work would be November 2015 (postponed from 2014) and that the Office of the Capital Master Plan expected, at that time, to receive the necessary permits from the host city in a few months (A/68/797, para. 5 and table 1); and (b) that in September 2014, the Secretary-General projected that the security-related work at 42nd and 48th Streets would start in early 2015 and be completed in late 2016 (A/69/360, table 2).

40. According to the Secretary-General, following the current estimate reflected in the thirteenth annual progress report, depending on successful contractual negotiations with the preferred vendor, construction activity for the remaining work relating to security at 42nd and 48th Streets is scheduled to commence in late 2015, with completion by late 2016 (A/70/343, paras. 13 and 17 (c)). Furthermore, the work, which will require up to 12 months of construction time, can only commence after the issuance of the necessary permits by the host city. The Advisory Committee notes from the report of the Board of Auditors that the Secretariat has revised its earlier assumption of the duration of the work from 18 to 12 months, which is not explained in the thirteenth annual progress report. The Committee recalls its recommendation that the General Assembly request the Secretary-General to provide clear information and justifications on the completion of the work related to 42nd and 48th Streets in the thirteenth annual progress report on the implementation of the capital master plan (A/69/529, para. 36). **The Advisory Committee requests that the related information be provided to the General Assembly at the time of its consideration of the thirteenth annual progress report.**

41. With respect to the process of issuance of work permits, upon enquiry, the Advisory Committee was informed that the supplementary information provided to the Fifth Committee on 6 March 2015 indicated that on 22 December 2014, the host

city's Department of Transportation had issued a "negative declaration" (i.e., no problems were highlighted), which completed its review of the environmental assessment statement for the perimeter security work.¹⁰ In accordance with host city procedures, the vendor undertaking the construction activity is responsible for submitting applications for permits (see also para. 39 (a) above). However, the Committee was informed that the procurement process for the selection of a vendor for the security-related work at 42nd and 48th Streets was under way and that upon selection of a vendor by the Secretariat, the normal construction permit process would proceed. **The Advisory Committee notes that while the review of the security-related work at 42nd and 48th Streets by the relevant authorities of the host country was completed in December 2014, the procurement process for the selection of a vendor by the Secretariat was still under way as at 29 September 2015, against the background of the continued delay of the related work. The Committee requests that information on the latest developments in this regard be provided to the General Assembly at the time of its consideration of the thirteenth annual progress report. The Committee recommends that the Assembly request the Secretary-General to take all measures to ensure the timely conclusion of the procurement process and the completion of the work before the end of 2016.**

IV. Project requirements, financial status and associated costs

Project funding and expenditures

42. As shown in table 2 in the thirteenth annual progress report, the Secretary-General has revised the estimated costs to complete the capital master plan project to \$2,150.4 million, compared with the estimates of \$2,215 million in his previous report (A/69/360, table 3). He indicates that the reduction of \$64.6 million reflects the net result of: (a) a decrease of \$65 million due to the exclusion of the Dag Hammarskjöld Library and South Annex Buildings from the scope of the project, as approved by the General Assembly in its resolution 69/274 A; and (b) an increase of \$0.4 million in voluntary contributions, received since the previous progress report (A/70/343, table 2, footnote). The total approved funding of \$2,150.4 million comprises the following:

- (a) Appropriations for the original project scope of \$1,876.7 million (for the details and evolution, see A/69/529, para. 40 (a) and footnotes 6-8);
- (b) Donations of \$14.3 million, including \$0.4 million received since the previous annual progress report;
- (c) Interest income and the capital master plan working capital reserve amounting to \$159.4 million;
- (d) Funding of \$100 million for the enhanced security upgrades by the host country.

¹⁰ The Advisory Committee was also informed that in 2013, during the planning of the security-related work, the Secretariat was informed by the host city of the necessity for the required changes in traffic flow at 42nd and 48th Streets to undergo two separate reviews (the first review on the environmental impact and the second review involving a public hearing process). Upon completion of those reviews in 2014, the proposed changes were forwarded to the host city's Department of Transportation.

43. Anticipating the final cost at \$2,150.4 million (see also para. 49 below), compared with the approved original budget of \$1,876.7 million plus voluntary contributions totalling \$114.3 million, the Secretary-General reports that the project resulted in a cost overrun of \$159.4 million, or 8 per cent (A/70/343, para. 74).¹¹ According to the Secretary-General, there is no anticipated increase in the overall project budget as at 30 June 2015 (*ibid.*, paras. 71 and 80).

44. The Secretary-General indicates that funding in the amount of \$2,150.4 million has been applied in full to the renovation activities to meet contractual obligations as they fall due for payment. Furthermore, as at 30 June 2015, cumulative expenditure incurred amounted to \$2,137.9 million, indicating that 99.4 per cent of the estimated cost to completion has been expended and committed (*ibid.*, paras. 73 and 78). Upon enquiry, the Advisory Committee was informed by the Board of Auditors that expenditure at the time of its audit was as follows:

(a) Actual commitments: \$2,144.849 million (99 per cent of the budget and commitment authority);

(b) Total expenditure/obligations: \$2,142.97 million (99 per cent of the budget and commitment authority);

(c) Total disbursements: \$2,011.72 million (94 per cent of the budget and commitment authority).

45. Table 3 in the thirteenth annual progress report contains information on the latest status of the capital master plan expenditure and remaining requirements until completion. It is shown therein that the requirements for the project from July 2015 to project completion are estimated at \$55.4 million, or \$12.5 million net after the application of \$42.9 million of savings resulting from the cancellation of obligations. According to the Secretary-General, the estimated requirements relate to the post-renovation activities and interim arrangements for the Library and South Annex Buildings, as well as the closure and final reconciliation of all remaining contracts (*ibid.*, paras. 79 and 80). **Since the Secretary-General does not provide a breakdown of the estimate of \$55.4 million for the remaining activities, it is not clear to the Advisory Committee how this amount relates to the requirement of \$49 million for the remaining activities as reported by the Board of Auditors (see para. 8 above). Furthermore, the Committee notes that the requirement for the interim arrangements related to the functions in the Library and South Annex Buildings was not included in the cost estimates in the twelfth annual progress report, but is now included in the estimates for the remaining activities in the thirteenth annual progress report (see para. 11 (b) above). The Committee therefore requests that information with respect to the latest expenditure/obligations and disbursement of the project, the breakdown of the requirements for the remaining activities until project completion and the anticipated potential savings from the closure of contracts be provided to the General Assembly at the time of its consideration of the thirteenth annual progress report. The Committee recommends that the Assembly request the Secretary-General to provide an update to the above-mentioned information in the fourteenth annual progress report.**

¹¹ The total cost overrun calculated by the Board of Auditors is now \$314 million (16 per cent), including a construction cost overrun of \$159 million, equivalent to 8 per cent of the approved budget (A/70/5 (Vol. V), sect. B, para. 10).

46. As at 30 June 2015, an amount of \$0.4 million in assessments remained unpaid to the capital master plan for 2011 and prior periods. Voluntary contributions have been paid in full (A/70/343, para. 76). With respect to the amount of interest to be accrued on the balance of capital master plan funds, it is expected that the amount will be \$114.4 million by 31 December 2015. In accordance with section IV of General Assembly resolution 68/247 A, the balance of the interest income up to the end of 2015 and the working capital reserve of \$45 million are being applied to the remaining cash balance for the corresponding remaining requirements of the capital master plan (*ibid.*, para. 77).

Associated costs and secondary data centre

47. The Advisory Committee notes that compared with the estimate of \$139,812,000 reported in the twelfth progress report (A/69/360, table 7), the overall expenditure related to associated costs amounts to \$139,740,300 as at 30 June 2015, representing a reduction of \$71,700 (A/70/343, table 4). The Secretary-General indicates that no further expenditure related to associated costs is expected beyond June 2015. As indicated in table 4 of the report (*ibid.*), the reduction of \$71,700 resulted from lower expenditure (\$71,300) under general temporary assistance in the Office of Central Support Services and higher savings (\$400) from cancellation of obligations under the Department of Safety and Security. The Secretary-General indicates that these amounts will be included in the residual fund balance to be returned to Member States (see para. 52 below).

48. The final cost of the secondary data centre (net of savings from cancellation of obligations) amounts to \$19.3 million (of which \$4.2 million was funded from the support account for peacekeeping operations, in accordance with General Assembly resolutions 63/269 and 64/228). The total requirements for the associated costs (\$139.7 million) and the secondary data centre (\$19.3 million) therefore amount to \$159 million (A/70/343, para. 84).

Consolidated project requirements

49. Compared with the \$2,304.8 million reported by the Secretary-General in the twelfth annual progress report (A/69/360, table 6) and noted by the General Assembly in its resolution 69/274 A (see also para. 43 above), the consolidated requirements of the project are currently estimated at \$2,309.4 million (A/70/343, table 5), consisting of the following:

- (a) Project plus enhanced security updates (\$2,150.4 million), an increase of \$0.4 million in voluntary contributions (see para. 42 (b) above);
- (b) Associated costs (\$139.7 million), a decrease of \$0.1 million (rounded figure) (see para. 47 above);
- (c) Secondary data centre (\$19.3 million), including \$4.2 million funded from the support account (see para. 9 and footnote 1 above).

Future project reporting and potential savings

50. The Secretary-General indicates that his fourteenth annual progress report on the capital master plan will be submitted to the General Assembly at the main part of its seventy-first session. It is anticipated that the financial close-out of the project will be conducted after the remaining post-renovation activities have been

completed and final payments to the vendors have been made, following which the Secretary-General would submit a final report to the General Assembly at the main part of its seventy-second session (A/70/343, para. 87).

51. The Advisory Committee notes from the report of the Board of Auditors that until all contracts are finalized and works completed, the final costs and any savings will not be known¹² (A/70/5 (Vol. V), sect. B, para. 17). Upon enquiry, the Committee was informed of the timeline for the final closing of the contracts of the capital master plan that remain open, as follows:

(a) With regard to the renovation activities, the remainder of the punch-list and commissioning work undertaken by the construction management firm is expected to be completed by the end of November 2015. The completion of such residual work will be followed by the receipt, review and finalization of the required documentation. This, in turn, will allow the commencement of the close-out activities, including the release of the last portion of the retainage held with respect to the trade contractors, submission and payment of the last invoices, and reconciliation and closure of the accounts by the end of March 2017;

(b) The contracts that are currently in process for the post-renovation activities are expected to be closed by the end of March 2017, after the conclusion of the underlying works by December 2016;

(c) It is expected that the contracts with the architects of record and consultants will be closed by December 2016.

52. The Board of Auditors indicates that it could find no evidence that the Administration has considered returning future surpluses to Member States (*ibid.*, para. 18; see the recommendation of the Board in paragraph 17 (d) of the summary of its report). The Secretary-General indicates that should there be a residual balance from the project funds and associated costs, the amounts would be reported in the final financial statements and a proposal as to how the amounts could be returned to Member States would be included in the final report of the Secretary-General on the capital master plan (A/70/343, para. 87; see also para. 47 above on the reduction of \$71,700 under associated costs).

V. Dag Hammarskjöld Library and South Annex Buildings

53. The Advisory Committee recalls that the General Assembly has reaffirmed its commitment to the renovation of the Dag Hammarskjöld Library and South Annex Buildings and requested the Secretary-General to submit to the Assembly for its consideration and approval future proposals relating to the renovation of these two buildings as separate projects outside the scope of the capital master plan through established procedures (resolution 69/274 A, para. 14).

¹² In March 2013, the Board of Auditors identified an estimated \$20 million of unreported contingency funds from unused obligations (savings). In June 2015, the Administration estimated \$39.5 million cumulative savings from its obligations with the main contractor. Those savings are included in the \$151.2 million savings on the prior-period obligations reported in the twelfth annual progress report of the Secretary-General (A/69/360, table 4), and are recycled to cover project costs arising from acceleration and change orders (A/70/5 (Vol. V), sect. B, para. 17).

54. In the same resolution, the General Assembly recalled section IV, paragraph 12, of its resolution 68/247 A, and requested the Secretary-General to engage in high-level conversations with the host city with a view to addressing the pending security concerns in relation to the Dag Hammarskjöld Library and the South Annex Buildings and to report on this matter in the context of the thirteenth annual progress report. It is indicated in the thirteenth annual progress report that in response to the request made by the Assembly, the Secretariat renewed its efforts to seek an understanding on measures that should be taken by the host city with a view to mitigating security concerns along 42nd Street. The Secretary-General indicates that no further progress had been made on this matter at the time of submission of his report (A/70/343, para. 59).

Interim measures related to the functions of the two buildings

55. In its resolution 69/274 A, the General Assembly recalled paragraphs 64 and 72 of the report of the Advisory Committee (A/69/529), and requested the Secretary-General to submit, in the thirteenth annual progress report, measures being taken as well as those envisaged for the relocation of functions currently housed in the Dag Hammarskjöld Library and South Annex Buildings.

56. In this connection, the Secretary-General indicates that in paragraph 77 of his twelfth annual progress report (A/69/360), he informed the General Assembly of his intention to seek interim measures for the relocation of the functions housed in both buildings that would preserve the minimal functionality to safeguard and protect the Organization's staff and ensure continuity of functions. Accordingly, in early 2015, the Secretariat commenced the planning and construction process to implement the relocation of some of the functions housed in those buildings in the most cost-efficient way and to limit the occupancy of the Library Building, as recommended by the Department of Safety and Security (A/70/343, para. 62).

57. The Secretary-General indicates that limited occupancy of the Library Building is interpreted to consist of limited presence of staff in locations on the north side of the Building, with the south side reserved for non-staff use, such as storage of equipment and library materials. Limited occupancy precludes the use of the auditorium and large gatherings in the Library's fourth floor penthouse (*ibid.*, para. 63). Upon request, the Advisory Committee was informed that the Department of Safety and Security confirms that there has been no change in its assessment with respect to the occupancy of the Library Building on the limited occupancy concept.

58. Information related to the relocation of some of the functions housed in the South Annex Building is provided in paragraphs 64 and 65 of the thirteenth annual progress report, including: (a) the classrooms and some offices were relocated to the third basement area (under the temporary North Lawn Building); (b) the interpreters' lounge and touchdown space were relocated to the 15th floor of the Secretariat Building; and (c) following the closure of the main cafeteria in July 2015, alternative food service arrangements were put in place, consisting of: (i) re-establishment of food service at the southern end of the fourth floor of the Conference Building (in the former location of the Staff Café); (ii) establishment of a grab-and-go food service on the first basement level of the Secretariat Building (in the area formerly occupied by the Postal Service); and (iii) establishment of an online order and pickup and coffee and snack service at the northern end of the Secretariat lobby.

59. According to the Secretary-General, the cost of the interim arrangements for the Library and South Annex Buildings is estimated at \$14 million, which has been met in full within the approved budget of the capital master plan (see para. 11 (b) above). Of the \$14 million estimated cost, an amount of \$5 million was for alternative food service facilities, \$4 million was for reconfiguration of the Library Building and \$5 million was for the creation of alternative classrooms and lounge space on the third basement level (A/70/343, para. 67).

VI. Recommendation

60. The actions requested of the General Assembly in connection with the thirteenth annual progress report on the capital master plan (A/70/343) are set out in paragraph 88 (a) and (b) of that report. **The Advisory Committee recommends that the General Assembly take note of the thirteenth annual progress report of the Secretary-General, subject to the comments and recommendations of the Committee contained in the present report.**